

**PURCHASE POLICY
&
PROCEDURE – 2014**

MISHRA DHATU NIGAM LIMITED



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PURCHASE POLICY AND PROCEDURE

INTRODUCTON:

Purchase Policy and Procedures (PPP) duly approved by the Board of Directors of Midhani in March 2004 was brought into force with effect from 01.04.2004. A need was felt to review the existing Purchase Policy and Procedure with a view to avoid the scope for subjectivity and improving transparency & efficiency in all kinds of procurements by laying out clear guidelines in tune with the latest DPE, CVC, GOI guidelines besides past experiences in procurement.

1.0 OBJECTIVES AND GOALS

- 1.1 In order to fulfill its functions, Midhani is required to purchase a vast variety of Raw materials, Stores (Consumables, Spares, Hand tools, Gauges & Instruments), Equipments and Sub-Contract different types of services. In all these transactions, primary objective and goal may be stated as follows.
 - 1.1.1 To ensure requisite quality, quantity and timely delivery of goods and services at most economical price through a fair and transparent competitive process.
 - 1.1.2 To identify and develop reliable indigenous sources of supply so as to minimize dependency on imports and promote self reliance.
 - 1.1.2.1 To verify in advance the financial status and technical competence of the tenderer and his capacity to execute contract commensurate with its value and to qualify the tenderer for participation in tenders.
 - 1.1.2.2 To resort to bulk purchase, having regard to defined inventory levels wherever it is economical and conclude long term contracts with a provision of standard break clause for items required in quantities at frequent intervals.
 - 1.1.2.3 To promote Small Scale Industries (SSI) taking into account the statutory provisions of Micro, Small and Medium Enterprises (MSME) Act.
 - 1.1.3 Endeavor to effect standardization of raw materials, stores and equipments.
 - 1.1.4 To conduct these transactions in accordance with sound business principles and practices in a transparent manner.
 - 1.1.4.1 To ensure that the terms of contract are precise, definite & free from ambiguity or from scope of misconstruction/misinterpretation.

- 1.1.4.2 To ensure transparency, competition, fairness and elimination of arbitrariness.
- 1.1.5 To develop personnel by training in the latest Techniques of Materials Management and procurement system.
- 1.1.6 To develop and establish appropriate information system to monitor and ensure proper Contract management and timely deliveries.
- 1.2 To implement the instructions related to purchases issued by Central Vigilance Commission department from time to time making the process of purchase transparent and accountable in nature.
- 1.3 To encourage small scale and Ancillary Industries, MSMEs in terms of Govt. guidelines issued from time to time.
- 1.4 To adopt the policy and procedure to facilitate E-Commerce.
- 1.5 Every authority delegated with the financial powers of procuring goods shall have the responsibility and accountability to bring efficiency, economy, transparency in matters relating to procurement and for fair and equitable treatment of suppliers and promotion of competition in procurement.

The procedure to be followed in procurement must conform to the following yardsticks:-

- i. The specifications in terms of quality, type etc., as also quantity of goods to be procured, shall be clearly spelt out keeping in view the specific needs. The specifications so worked out shall meet the basic needs without including superfluous and non-essential features, which may result in unwarranted expenditure. Care shall also be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs;
- ii. Offers shall be invited following a fair, transparent and reasonable procedure;
- iii. The authority shall be satisfied that the selected offer adequately meets the requirement in all respects;
- iv. The authority shall satisfy itself that the price of the selected offer is reasonable and consistent with the quality required;
- v. At each stage of procurement the concerned authority must place on record, in precise terms, the considerations which weighed with it while taking the procurement decision.

2.0 DEPARTMENTS AUTHORISED TO MAKE DIRECT PURCHASES

- 2.1 All purchases should be made through the purchase department with the exception of the following items:
- 2.1.1 Canteen, Training Hostel / Guest House and Super D Quarter consumables shall be procured by Personnel and Administration department following the established purchase procedures.
 - 2.1.2 Services for repair & maintenance of office equipment like copier / fax machines, inter-communication equipment, repair of furniture, franking machine, reprographic equipment & Time office systems shall be arranged by Administration department.
 - 2.1.3 Service for repair and servicing of weigh bridges, weigh scales, room air conditioners, water coolers, motor vehicles, Fork Lifts shall be arranged by Repair & Maintenance division.
 - 2.1.4 Emergent requirement of Medicines shall be procured by Medical Officer. Bulk purchase of medicines, equipment for First Aid / Clinic will be purchased through Purchase department.
 - 2.1.5 Civil works shall be arranged by Civil Engineering department. The material procurement will however be made through Purchase Department only.
 - 2.1.6 Services for repair & maintenance with respect to all personal computers including main system covering network will be made by IT Department by following established Purchase procedure.
 - 2.1.7 However, where the value of these services are likely to exceed Rs.25 Lakhs per annum, the tendering and evaluation of tender process would be done through the Purchase Department viz., hiring transport, canteen services, labour contracts etc., in view of the fact that expertise in this area lies with purchase department.
 - 2.1.8 The interface between the supplier / sub-contractor / off-loading contractor and MIDHANI will be the Purchase department only.

3.0 PURCHASE REQUISITION

- 3.1 The material is categorized as follows for the purpose of initiating requisitions by indenting departments for procurement action.

- i. Capital Equipment
- ii. Raw materials
- iii. Special / Production Consumables
- iv. General Consumables including Medicines & Stationery
- v. Hand tools, Gauges and Instruments
- vi. Proprietary spares / Specific Spares
- vii. General Spares
- viii. Sub-Contracting/ Off-loading/ Assistance in various operations
- ix. Repairs, Services & Miscellaneous materials, i.e., materials other than those covered in the above categories.
- x. (a) Cash Purchase
(b) Emergency Purchase

3.2 Purchase department will initiate purchase action against purchase requisitions received in the pro-forma prescribed at **Appendix-1** for Capital items (CPAR – Capital Procurement cum Appropriation Requisition) and **Appendix-2** for Revenue items (MPR – Material Purchase Requisition). Before initiating the Purchase action MPRs/ CPARs should be scrutinized to ensure that it is complete in all respects and necessary specifications and drawings are provided. Further, MPRs received from various departments / shops for similar items should be clubbed for procurement to enable company to get competitive rates. The Indentor has to provide the last Purchase Order details and the basis of estimated value if any.

3.3 Purchase department will ensure that no commitment is made on a MPR / CPAR unless approved by Competent Authority in accordance with Delegation of Powers.

3.4 All MPRs for procurement of Consumables, Spares, Hand tools, Gauges & Instruments shall be routed through Stores department.

All MPRs for procurement of Raw materials shall be routed through Stores and Production Planning & Control (PPC).

All Off-loading MPRs shall be routed through PPC only.

All MPR's indicating the total quantity available in Main Stores, Sub Stores, Shop floor & pipe- line quantities shall be forwarded by Indentor at the time of approval.

3.5 All CPARs shall be routed through Finance department to ensure Budget provision.

3.6 Where materials are desired to be procured on a proprietary basis from a single source, the purchase requisition shall be accompanied by a Proprietary Article Certificate, as per Proforma given in **Appendix-3**.

3.7 All MPRs in the following cases shall be routed through Finance department:

- i. Estimated MPR value above a value of Rs. 50 Lakhs.
- ii. MPRs needs approval of C & MD.

3.8 The MPRs/ CPARs shall be prepared by the Indenting department and approved by the competent authority in accordance with the Delegation of Powers. The MPRs/ CPARs shall be prepared in duplicate completely filled in all respects. Original MPR/ CPAR shall be retained in Purchase department and the duplicate will be returned to Indentor by Purchase Department after putting the MPR/ CPAR control number of Purchase department.

The value of the CPAR/ MPR for purpose of sanction as per Delegation of Powers will be the value of the item exclusive of taxes, duties & transportation.

3.9 In case, the actual value of procurement for MPRs (excluding Taxes, duties and transportation) exceeds the estimated value, same will be dealt as per Delegation of Powers.

For CPARs, in case the actual value of procurement exceeds the estimated value then budget re-appropriation with financial concurrence is required.

3.10 Wherever applicable, a quantity tolerance of +/- 10% shall be incorporated in Purchase Orders.

3.11 Checklist to be enclosed (**Appendix – 24**) with MPR/ CPAR by Indenting Department:

- i) Last Purchase Order details i.e., P.O. No, P.O. date & Supplier name.
- ii) Stock position for MPR with respect to:
 - a) Central Stores
 - b) Sub Stores
 - c) Shop floor
 - d) Pipe – line quantities (including both pending Purchase Order details and pending Indents in process).
- iii) Justification for Procurement.
- iv) Specification (if any).
- v) Drawings (if any).
- vi) Delivery Schedule/ Lead time.
- vii) Proprietary Article Certificate (if any).
- viii) Acceptance Criteria.
- ix) Pre-Dispatch Inspection clause (if any).
- x) Warranty/ Guarantee clauses (if any).
- xi) Sources with addresses and contact details.

xii) Name of the last supplier in list of sources (if not, with justification)

xiii) Nature of Indent: Express / Normal (*)

* Preference will be given to Express Indents during Procurement process.

3.12 On receipt of MPR/ CPAR, Purchase Department shall check the same as per Checkpoints incorporated at **Appendix – 21**.

3.13 Any change/ modification to approved MPR/ CPAR shall be with the approval of same authority that approved the MPR/ CPAR originally.

3.14 Splitting of requisitions to bring them within the powers of lower authority shall not be resorted to.

4.0 APPROVAL OF SUPPLIERS, REGISTRATION, EVALUATION AND ASSESSMENT OF VENDORS

Procedure for approval of vendors and their evaluation will be circulated in a separate document.

4.1 VENDOR DEVELOPMENT

Continuous efforts shall be made for developing alternate potential sources. The objective is to have a minimum of two sources to be developed successfully to reduce our dependence on a single source with connected risks, besides to get the items at competitive prices. A team consisting of representatives from Purchase, Quality/ R & D and User department shall make efforts towards establishing an alternate source.

Purchase Department shall,

- i. Organize Vendor Meets to invite new vendors to register.
- ii. Advertise products for which vendors are required, in News paper & hosting details in website.

In case of development of new vendors through Development orders, **clause no. 24.4** to be referred.

4.2 REMOVAL FROM THE LIST OF THE APPROVED FIRMS

Removal from the List: Whenever a firm is found lacking in performance in terms of response, delivery compliance, capacity, quality standards, ethics or any other valid reason, the firm may be removed from the list after giving notice of proposed removal to the firm. Besides, there may be registered firms which may have ceased to exist or may have been acquired by or merged with another firm, may have switched over to other sectors of business operation or

indulged in unethical business practices and influence peddling. Such firms should be removed from the list of approved vendors after giving them notice of the proposed removal.

The registration of the firm will be cancelled with the note routed through VRC and with the approval of C & MD on case to case basis by giving prior notice. A registered firm is liable to be temporarily/ permanently removed from the list of approved contractors.

Note: In case of temporary removal, the firm has to go for fresh registration.

Effect of Removal from the List: Whenever a firm is removed from the list of approved vendors, its registration stands cancelled. Such removal must be communicated to all other registering and procuring agencies so that no further business relations are maintained with such firms.

4.3 BAN ON DEALINGS WITH A FIRM

Ban on dealings: When the misconduct of a firm or its continued poor performance justifies imposition of ban on business relations with the firm, this action should be taken by the appropriate authority after due consideration of all factors and circumstances of the case and after giving due notice.

Business dealings with a firm, whether it is registered or not registered, may be ordered to be banned with the note routed through VRC and with the approval of C & MD on case to case basis.

5.0 MODES OF TENDER

5.1 The recommended modes of tendering for placement of orders are as under:

- (i) Open Tender Enquiry (OTE) & Global Tender Enquiry (GTE)
- (ii) Limited Tender Enquiry (LTE)
- (iii) Single Tender Enquiry (STE)
- (iv) Proprietary Tender Enquiry (PTE)

5.1.1

a. Open Tender Enquiry (OTE):

5.1.1.1 Open tender enquiries are to be considered under the following circumstances:

- (i) When reliable manufacturers/ suppliers/ traders/ contractors as well as latest Technologies are not clearly known.
- (ii) When it is felt that advertising may elicit better response.
- (iii) When the estimated value of Raw material, Stores and Sub Contract/ Off-loading exceeds Rs. 25 Lakhs and approved suppliers are not available.
- (iv) When the estimated value of the Equipments and other

items Included in the Capital budget exceeds Rs. 25 Lakhs and approved suppliers are not available.

- (v) The Open Tendering system should be the preferred mode for procurement of common use items of generic or commercial specifications which are readily available off-the-shelf in the market from a wide range of sources/vendors.

5.1.1.2 Wherever open tenders are resorted to, the enlisted suppliers/sub-Contractors/off loading contractors, should also be made aware of the same via mail/ post to get Competitive offers.

5.1.1.3 Open tenders should be given wide publicity through advertisement in Hindi/English/local newspaper (at least in one National daily having wide circulation) and to be uploaded in MIDHANI website as well as in www.tenders.gov.in

b. Global Tender Enquiry (GTE):

Where it is felt that the goods / services of the required quality, specifications, etc., may not be available in the country and it is necessary to also look for suitable competitive offers from abroad.

In the case of Equipment of complex nature, publicity shall be given through Indian Trade Journal (ITJ) and an intimation regarding the tender to Embassies of major trading countries as well as the foreign embassies in India in addition to mode of publicity as at 5.1.1.3 above. The selection of embassies would depend on the possibility of availability of the required goods/services in such countries.

5.1.1.4 IMPORTANT REQUISITES FOR OPEN TENDER:

i) Standard formats which form part of this policy and procedure shall be issued against tender.

ii) A minimum four weeks period should be allowed for submission of the tenders from the date of advertisement. This period should be increased suitably in cases involving purchase of major items with the approval of HOD (Purchase). In exceptionally urgent and simple cases, the period of submission of tenders may be reduced to two weeks with the prior approval of HOD (Purchase).

iii) Tender forms shall normally be issued on payment of an amount mentioned below or equivalent through demand draft or Bankers

cheque from a Nationalized Bank / Scheduled Commercial Bank or payment through online with proof thereof alongwith bidder's offer. However, tender forms to MSME registered with National Small Industries Centre (NSIC) will be at free of cost as per Govt. guidelines from time to time.

Tender fee:

- i. for MPRs/ CPARs valuing < 5 Lakhs – Rs. 2,500/-
- ii. for MPRs/ CPARs valuing > 5 Lakhs – Rs. 1,000/-

iv) All offers shall be received together with Earnest money deposit (EMD) as per table mentioned in **clause No. 28** of Purchase Policy.

v) EMD and security Deposits may be accepted in the form of Demand Draft/ Banker's Cheque from a Nationalized Bank / Scheduled Commercial Bank or in the form of Bank Guarantee or payment through online with proof thereof (alongwith bidder's offer for EMD). Any relaxation with respect to EMD and security Deposits should have the approval of C & MD. MSMEs registered with NSIC shall be exempted from EMD and security Deposit as per Govt. guidelines from time to time.

5.1.2 LIMITED TENDER ENQUIRY (LTE):

In limited tender, the most likely and reliable sources are to be addressed directly.

Limited tendering shall be resorted to in the following cases:

- 5.1.2.1 Items available from the list of approved suppliers.
- 5.1.2.2 Purchase of Raw Materials & Stores and Sub- Contract/ Off-loading, where established/ approved sources are available only Limited Tender shall be resorted to irrespective of the Indent value.
- 5.1.2.3
 - i) Purchase of Raw materials & Stores and Sub- Contract/ Off-loading, upto Rs. 25 Lakhs in each case which are not available from the list of approved suppliers. The suggested sources/ suppliers shall be considered for sending enquiries as given by the Indentor.
 - ii) Purchase of Equipment upto Rs. 25 Lakhs in each case which are not available from the list of approved suppliers. The suggested sources/ suppliers shall be considered for sending enquiries as given by the Indentor.

- 5.1.2.4 When MIDHANI's customer has specified the specific item/ service to be purchased from the specific source.
- 5.1.2.5 When MIDHANI on its own wants to go for Limited Tender because of the nature and secrecy involved.
- 5.1.2.6 Time allowed for receiving quotations against limited tenders will be minimum four weeks. However, this time can be further reduced in case of urgent requirement with approval of DGM/ HOD (Purchase). In cases where no offers or single offer is received on due date, DGM/HOD (Purchase) will decide whether due date needs to be extended for generating fair competition, accordingly such tenders/quotations will be obtained on extended due date.
- 5.1.2.7 To ensure adequate competition and price advantage, limited tenders should be addressed to as many sources as possible, but not less than 5. Where the number of available sources of supply is less than 5, the suppliers to be addressed may be reduced with the approval of D (P&M).
- 5.1.2.8 Limited tendering is justifiable wherever it is not feasible or efficient to consider and evaluate large number of potential suppliers.

5.1.3 SINGLE TENDER ENQUIRY (STE):

- 5.1.3.1 Procurement from a single source may be resorted to in the following circumstances: -
- i. In a case of emergency, the required goods are necessarily to be purchased from a particular source and the reason for such decision is to be recorded and approval of competent authority obtained.
 - ii. For standardization of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert and approved by the competent authority), the required item is to be purchased only from a selected firm.
 - iii. When MIDHANI's customer has specified the specific item/ service to be purchased/ obtained from the specific source.
 - iv. For developmental orders placed on new sources.
 - v. When it is necessary due to specific technical reasons to be recorded in writing and for operation urgency.

5.1.3.2 In single tender method, the sources of supply should be reviewed periodically so as to get the best price advantage.

5.1.3.3 Approval of Indent shall be as per DOP.

5.1.4 PROPRIETARY PURCHASE:

Procurement from a single source on proprietary basis may be resorted to in the following circumstances: -

5.1.4.1 It is in the knowledge of the user department that only a particular firm is the manufacturer of the required goods.

5.1.4.2 Certificate that the case is proprietary in nature, is to be recorded on the MPR by the competent authority (As per **Appendix –3**). Proprietary Article Certificate (PAC) as per format at Appendix – 3, shall be enclosed to Indent.

5.1.4.3 When proprietary items are supplied by manufacturer as well as his authorized dealer, enquiries should be sent to both.

5.1.4.4 Issue of Tender:
Tender enquiry on proprietary basis is to be issued to one party, only if it is either the only manufacturer or his stockiest/ distributor for the particular item.

6.0 METHODS FOR CALLING TENDER

The following methods shall be adopted for calling of tenders:

- i) Single Part tendering,
- ii) Two part tendering.

6.1 Single Part tendering:

6.1.1. **Single Bid system:** For stores available commercially off-the-shelf (COTS), where qualitative requirements and technical specifications are clear, single commercial bid system may be followed.

This system may also be followed for other procurements of non-complex nature. No sample should be called for in single bid system at the RFP stage.

Single part tendering involves calling for tenders in one part: Single tender comprises Techno Commercial as well as the Price.

The bid (technical + commercial + financial /price) shall be sealed by the bidder in a single cover duly super scribed (tender reference no. and the date of opening).

6.1.2 For estimated value of the Indents upto Rs 10 Lakhs, single part bid shall be invited.

6.2 Two part tendering:

6.2.1 **Two bid system:** For purchasing high value plant, machinery, equipment, IT and communication systems and for turnkey projects, etc., which are of a complex and technical nature or for procurement of items which have indeterminable parameters, such as shade, tone, make-up, feel, finish and workmanship, etc., bids should normally be obtained in two parts as follows. The Request For Proposal (RFP) format is enclosed at **APPENDIX- 25:**

- a) Technical bid consisting of all technical details along with commercial terms and conditions along with EMD (if any), Integrity Pact (if any); and
- b) Financial / price bid indicating item-wise price for the items mentioned in the technical bid.

The technical bid (technical + commercial) and the financial /price bid shall be sealed by the bidder in separate covers duly super scribed and both these sealed covers are to be put in a bigger cover which should also be sealed and duly super scribed (tender reference no. and the date of opening). The technical bids are to be opened by in the first instance and evaluated. At the second stage, financial/ price bids of only the technically acceptable offers should be opened for further evaluation and ranking before awarding the contract/ Order.

6.2.2 For estimated value of the Indents above Rs 10 Lakhs, two part bid shall be invited.

6.2.3 In cases of job contract, generally the Technical / commercial terms need to be negotiated. Therefore, for all such job contracts, two part bid shall be invited.

6.2.4 Specific Requirements:

6.2.4.1 RFI/ EOI: Where equipment / plant to be procured is a complex nature and full knowledge of the various Technical solutions available in the market is not known, the broad objectives, constraints etc. shall be published by calling for RFI / EOI and on receipt of EOI, Technical discussion / presentation may be held with short listed manufacturers and suppliers, who are prima facie considered technically and financially capable of supplying the material or executing the proposed work. During this Technical discussion stage, other stake holders may also be added in the discussions who could add value to the decision making on the various aspects and

evaluation criteria. Based on the discussions / presentations so held, one or more acceptable Technical solutions could be decided upon laying down detailed Technical specifications for each acceptable Technical solution, quality bench mark, warranty requirements, delivery mile stone etc., in a manner that is consistent with the objectives of the transparent procurement. At the same time care should be taken to make the specification generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussion / presentations and the process of decision making shall be kept.

- 6.2.4.2 Pre-qualification bid: Pre-qualification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their
- (a) Experience and past performance on similar contracts.
 - (b) Capabilities with respect to personnel, equipment and manufacturing facilities.
 - (c) Financial standing through latest I.T.C.C.,
 - (d) Annual report (balance sheet and Profit & Loss account) of last 3 years.
 - (e) Specific requirements like quantity, delivery etc shall be kept in view, while fixing the Pre qualification criteria.
- Pre-bid meeting (if required) shall be taken up.

6.2.4.3 Indentor has to clearly indicate the requirement of RFI/ EOI and Pre-qualification bid (if required) in the Indent.

6.2.4.4 Once the Technical specification and evaluation criteria are finalized, two part tendering shall be taken up.

7.0 INVITATION TO TENDER

- 7.1 Invitation to Tender shall be issued on obtaining the approval of Competent authority i.e., upto Rs 10 Lakhs – DGM (Purchase) and more than Rs 10 Lakhs – HOD (Purchase).
- 7.2 Invitation to tender should be issued in the prescribed form (also see Para 5.1.1.4 (1)) Invitation to tender shall be accompanied by the relevant general conditions of contract.
- 7.3 Standard forms of invitation to tender and General Condition for contract are prescribed for each of the above types of invitation to tender and these should be used as a set while calling for tenders. Changes if any in standard forms of Invitation to Tender and General Conditions of Contract should be legally vetted. These documents are appended as detailed below.

1	Invitation to Tender for Indigenous stores	Appendix-4
2	Invitation to Tender for Imported stores	Appendix-5
3	Invitation to Tender for purchase of plant, Machinery and Equipment, supervision of Erection & Commissioning and complete Erection & Commissioning services along with General Conditions of Contract.	Appendix-6
4	Invitation to Tender for Job works	Appendix-7

7.4 All invitation to tenders shall be issued by Registered post/speed post/courier/fax/mail/paper advertisement and whichever is applicable.

8.0 GENERAL INSTRUCTIONS FOR TENDER

8.1 The following general instructions are to be followed for all types of tenders as applicable:

8.1.1 Tender closing date and time, tender opening date and time and in case of Open tender, “opening of tenders in the presence of tenderers” should be clearly indicated.

8.1.2 All enquiries must contain clearly written specification / description / Drawings with quality / quantity and delivery schedule.

8.1.3 Conditions for levying liquidated damages, risk purchase clause as applicable should be clearly indicated.

8.1.4 A comprehensive list of standard commercial terms and condition must be annexed with the enquiry, inviting specific confirmation on each front.

8.1.5 The tender documents in all such cases include a clause that price negotiation may not be carried out with the parties and contract is likely to be awarded to the lowest tenderer, if the offer is Technically acceptable and the prices are found to be reasonable.

8.1.6 Distribution of quantities due to critical or vital nature of the item shall be pre disclosed at the tendering.

8.1.7 Where quantities are to be distributed to multiple parties, the other parties L-2, L-3, L-4.....need to match the L-1 price. The

matching of prices, to avoid placement of order on differential price, shall not be treated as counter offer or negotiation.

8.1.8 The purchases should preferably be made directly from the manufacturers. Either the Indian Agent on behalf of the Foreign principal or the Foreign principal directly could bid in a tender but not both. Further, in cases where an agent participates in a tender on behalf of one manufacturer, he should not be allowed to quote on behalf of another manufacturer along with the first manufacturer in a subsequent / parallel tender for the same item.

8.1.9 The tenderer has to specify the residential status for the purpose of Income Tax, in case of Import bids.

8.1.10 While floating the tender, Purchase Department shall check the enquiry/ tender in all respects as per Checkpoints at **Appendix - 22**.

9.0 CASH PURCHASE AND EMERGENCY PURCHASE

9.1 CASH PURCHASE

- 9.1.1 Cash purchase from the local markets or markets in outstations in case of non-availability of stores are to be authorized by Competent authority.
- 9.1.2 Purchase of single items up to Rs. 5,000/- may be made after making telephonic/verbal enquiries. This is called as Petty Purchase. The amount can be adjusted from the imprest amount available with Purchase Department.
- 9.1.3 Purchases above Rs. 5,000/- not exceeding Rs. 20,000/- in each case may be made on the basis of not less than 3 written quotations. This is called as Cash Purchase.
- 9.1.4 The cash purchases above Rs. 5,000/- as indicated above shall be made by a team of Officers to be decided by the authority competent to sanction purchase, but not below the rank of Deputy General Manager (Purchase) / HOD (Purchase).
- 9.1.5 Purchase in all the above cases should be made taking into account price, quality, delivery requirements etc. preferably from vendors registered with the company.
- 9.1.6 A register/ separate file showing full details of such purchases should be maintained by purchase Department.

9.1.7 Cash Purchase should not be considered as a normal practice of procurement. Only in case of urgency and for items which cannot be procured by normal tendering process, cash purchase shall be resorted to. Proper justification shall be given for all cash Purchase indents. All Indenting divisions to restrict the Cash purchase by planning the procurement in advance.

9.2 EMERGENCY PURCHASE

- 9.2.1 Provisions for emergency purchase of goods and services have to be kept to meet the emergency needs of the Plant to keep the flow of production uninterrupted. In case of purchase, such emergency normally occurs when there is no stock in the Stores and chances of getting supplies against pending orders within the stipulated time schedule are remote. Similarly, in case of job contracts, such emergency occurs when breakdown of equipment occurs and internal resources are not adequate to take timely action.
- 9.2.2 C&MD and D (P&M) are the competent authorities as per D.O.P. for approving Emergency Purchase Indents (MPR/ CPAR). Such Indents shall be routed through Finance department for concurrence only at Indenting stage.
- 9.2.3 Due to the very nature of the requirements which has to be met in the shortest possible time, the normal process of tendering stipulated in this procedure cannot be followed. For emergency Indents, the mode of tendering and method of placement of order may, therefore, be adopted as per the specific requirements of the case and the time available for the placement of order and getting materials/execution of jobs. Approval of the Competent Authority shall be obtained for the specific mode of Purchase /award of contract and order finalized. Placement of order on Single Tender/ single offer basis may be adopted in such situations.
- 9.2.4 The materials may be procured from best possible source preferably from vendors registered with the company and jobs be awarded to the reliable Contractor for such emergency procurement/job contract respectively.

10.0 INTEGRITY PACT

For all MPRs & CPARs of estimated value Rs 1.0 Crore and above, the tenderer(s)/ contractor (s) has to enter into an “Integrity Pact” with MIDHANI. A copy of the Integrity Pact duly signed by the authorized signatory on behalf of MIDHANI has to be enclosed with the tender/ bid document. All bidders shall submit the signed Integrity Pact alongwith Techno-Commercial bid. If the signed Integrity Pact is not found enclosed, such offers are liable for rejection. (Integrity Pact format at **Appendix – 20**)

11.0 REPEAT ORDER

Normally, as per the lead-time, prior to expiry of the running supplies / job Contract, the Indenter has to process fresh Indent. However, due to unavoidable circumstances, if either the Indent is not processed or even after processing the Indent, it is not possible to place fresh order in time, under such circumstances for the Item / Job Contract for which continuity is essential, it may be necessary to place repeat order on existing party / Contractor. After recording the reasons leading to placement of repeat order, the proposal for repeat order on same terms, conditions and specifications may be considered on the following:

- i) The original order must have been placed in the usual course of tendering. Emergency orders shall not be considered.
- ii) The purchaser reserves the right to place repeat order upto 100% of the quantities within one year from the date of original order or six months from the completion of supplies of the original order (i.e., from the date of acceptance of item) whichever is earlier.
- iii) Sanction of Competent Authority for repeat order shall be obtained as per D.O.P.
- iv) Only one Repeat Order is allowed.
- v) It should be ensured that there is no downward trend in prices.

12.0 RECEIPT OF TENDER

12.1 The representatives of the tenderers who submit tenders in person should be asked to drop the tenders in the tender box. Tenders received by post should also be kept in the tender box by Purchase department. If any tenders are received without reference to the tender number and date of opening and are therefore opened in the normal course in the office, the same should be put in a cover and sealed and authenticated by the Officer opening the tender duly superscribing the tender number and date of opening on the envelope. The person who opens the tender as above will indicate reasons thereof on envelope. The name of the tenderer should also be mentioned on the envelope. A Tender Opening Committee (TOC) shall be constituted consisting of officers one each from Finance and Purchase besides DGM (Purchase) as chairman of TOC as appointed by HOD (Purchase). All tenders irrespective of the value may be opened by the TOC in the presence of tenderers who might choose to be present at the time of opening of the tenders and an indication to that effect made in the notice inviting such tenders.

12.2 Tenders should be received in closed envelope only. However, if tenders are received in the form of E-Mail, then it will be at tenderer's risk. The tenderer also has to ensure that submission of tender is made with signed scanned copy. A dedicated e-mail Id shall be used for this purpose and TOC is authorized to open

the same. The same shall be considered along with other tenders on respective due date and same shall be recorded in the Tender Opening form.

- 12.3 In the case of multi bid system, Techno commercial bid shall be opened on the due date and the price bid will be initialed by TOC and deposited with DGM / HOD (Purchase). The price bid will be opened in the presence of the bidders or their authorized representatives only after the Techno-commercial clearance in all respects.

13.0 TENDER OPENING

The following procedure must be observed during Tender opening:

- 13.1 Each page of the original quotation should be signed by TOC.
- 13.2 Alterations or corrections or blank spaces if any found in the quotation must be initialed and the corrections brought out clearly.
- 13.3 Each quotation must be numbered as "Y/X" (the denominator will be the total number of quotations received and the numerator will be the serial number of the quotations out of the total quotations received). For example, if there are 5 quotations, each will be numbered as 1/5, 2/5, 3/5, 4/5,5/5.
- 13.4 Offers should be marked "Original", "Duplicate", "Triplicate" etc.
- 13.5 The postal envelopes should be signed and preserved in the purchase files.
- 13.6 The details of the tenders received should be recorded in the pro-forma prescribed vide **Appendix-8** (Tender opening form) and kept in the respective files.
- 13.7 Signature of the authorized representatives of tenderers who are present at the time of opening of the tenders should be obtained.
- 13.8 Where the representatives of tenderers are present at the time of opening tenders, the following information should be read out to the tender's representative.
- i) Tender number and date
 - ii) Name of tenderer
 - iii) Description of the materials offered
 - iv) Prices
 - v) Terms of delivery
 - vi) Delivery period
 - vii) Terms of payment
 - viii) Taxes & Duties and discount offers, if any.
- 13.9 In case no offer is received on due date, the same shall be recorded.
- 13.10 EMD, if received, along with the tender should be recorded as such and should be sent to Finance & Accounts Department.

14.0 CLASSIFICATION OF TENDERS

- 14.1 Tenders received should be classified as (i) regular (ii) late.
- 14.2 Regular Tender: Tenders received within the due date and time indicated in the invitation to tender are to be treated as “Regular” tenders.
- 14.3 Late Tender: Tenders which are received, other than single/ proprietary tender, after the due date and time of receipt prescribed in the enquiry / tender notice, are to be treated as “Late-Tender”. Such tenders shall not be considered.
- 14.4 Late offer in response to single/ proprietary tender shall be considered as a special case. The first late offer received either from Manufacturer or from their authorized dealer shall be considered for processing.

15.0 UNSOLICITED TENDERS

Unsolicited tenders are the tenders received from a tenderer to whom enquiry was not sent. Such unsolicited tender should not be considered. However, offers received from tenderers alongwith authorization letter from the party to whom original enquiry was sent shall be considered.

16.0 RE- TENDERING

Re-tendering is not to be resorted to in the normal course. However, re-tendering shall be considered in the following exceptional cases:

- a) When the prices quoted are considered very high.
- b) When it is suspected that there is a ring existing and price have been manipulated.
- c) Major change in the basic specification has been introduced after receipt of tenders.
- d) None of the offers meet the desired specifications.
- e) The L1 bidder withdraws the offer or fails to execute the order or do not agree for extension of validity when it becomes necessary.
- f) When there is a sudden change in the market condition.
- g) No offers received even after one extension of due date.

Re- tendering when resorted to shall be only after obtaining the approval of competent authority who has approved the Indent.

In case of stock out, a part quantity may be purchased on an emergent basis.

17.0 TECHNICAL SCRUTINY

- 17.1 Whenever a two bid system is followed for tenders, the Techno commercial bid should be opened first and the price bid is to be opened only after the Technical scrutiny is completed in all respects and Technical recommendations are recorded giving clearance for opening of Price bids.

The aim of Technical scrutiny may be summarized as under. For all procurement cases, Technical offers should be referred to the Indenting Department for Technical scrutiny.

17.1.1 To ensure that offers are Technically acceptable in every detail/all aspects.

17.1.2 To bring all Technically acceptable offers at par and to clarify any doubts or ambiguities by preparing a Technical comparative statement based on the specification and qualification criteria indicated in the tender.

17.1.3 To ensure adequate levels of maintenance support, documentation, spares backup, guarantees etc.

After the bids are opened as per the procedure, preparation of Commercial and Price Comparative statement, shall be the responsibility of the Purchase Department. In case of complex cases, the Technical and commercial comparative statements may be prepared by the Indenting Officer at the request of purchase Department, if it is not possible for the Purchase department to prepare it. However, in all such cases Purchase department shall intimate the indenting officer the prevailing foreign exchange rates, insurance charges, custom duty besides applicable freight, landing charges to be loaded for arriving at the landed prices.

17.1.4 The basis for comparison of cost shall be the cost to company (landed cost).

17.2 In case of sub-contract/Off-loading contracts, the Technical offers should be referred to Indenting Department who may take the assistance of planning and other connected departments, who may, if necessary, hold detailed discussions with the tenderers to achieve the above mentioned aim of Technical scrutiny and narrow down the field to those offers which are technically acceptable in all respects.

17.2.1 In case of sub-contract/ off loading contract, the indenting department/planning department should make the detailed analysis of quantum of work to be sub-contracted/off-loaded along with the analysis of rates and market rates with justification for the same to be forwarded to "Purchase Department" along with sub-contract/off-loading advice.

17.3 The recommendation of the Indenting department should be sent to Purchase department, immediately without any delay.

- 17.4 In case, the quoted Techno-commercial bids are in conformity with the tender, the price bids received will be considered for opening. In case, the Techno-commercial bids need to be discussed and clarified by the tenderers, clarification meetings may be held with them. Clarifications may also be obtained through letter/ fax/ mail. However, clarifications / confirmations / details sought should not amount to change in structure and specifications of the tender documents.
- 17.5 Purchase department shall obtain a letter from the Indenter/ Technical committee that the Technical points have been frozen based on the clarifications and discussions had with vendors and no further Technical clarifications/ discussions are required with the vendors and hence the recommendation is given for the opening of Price bids.
- 17.6 Price bids of only Techno commercially acceptable tenderers will be opened in the presence of tenderers who might choose to be present at the time of opening.

18.0 TENDER SCRUTINY IN RESPECT OF TENDERS OF SINGLE BID SYSTEM

After opening of the tenders, a comparative statement in the prescribed format is prepared by the Purchase department. The tenders received are scrutinized by the concerned dealing officer in the Purchase department with reference to details, specifications, price, delivery etc. The tenders are referred to the Indenting department for Technical recommendations. If any Technical discussions and consultations are carried out by the Indenting department with the tenderers, the procedure at **clause no. 17** shall be followed.

19.0 CURRENCY

As a general rule, domestic tenderers will quote in Indian currency only. Foreign tenderers will quote in USD/ EURO/ POUND/ YEN.

20.0 DETERMINING REASONABILITY OF PRICES

In the case of competitive tendering where two or more vendors are competing independently to secure a contract, the competitive bids form the basis for determining reasonableness of prices. Database maintained on cost, based on concluded contracts, price of the product available through market, etc. should also be used to assess reasonableness of the price offered.

- (a) Evaluation of tenders is to be made on the basis of the ultimate cost to the user.
- (b) As a general principle, no offer involving any uncertain or indefinite liability or any condition of unusual character should be considered.
- (c) The reasonableness of the price proposed has to be established by taking into account the competition observed from the response of the trade to the enquiry, last purchase price (LPP), estimated value as given in the indent, database maintained on costs based on the past contracts entered into, market price, wherever available and changes in the indices of various raw materials, electricity, whole sale price index, and statutory changes in wages, rates etc.

(d) For procurement of spare parts, consumables and small value contracts which are supplied in the past, the price reasonableness can be determined after comparing with last purchase price and factoring in changes in price indices published by the Government sources.

(e) The reasonableness of price may also be examined by resorting to Cost Analysis in situations where there is a wide variance over the LPP, not explained by corresponding changes in indices.

21.0 PRICE NEGOTIATIONS

Price negotiations are to be carried out only with the lowest Techno-commercially cleared tenderer (L1).

The aim of Price Negotiations may be stated as under:

- 21.1 To obtain the most economical price from the successful tenderer.
- 21.2 To obtain the most advantageous terms of payment.
- 21.3 To decide on liquidated damages, risk purchase clause etc.
- 21.4 To finalize the terms and conditions of delivery of goods/execution of work.

22.0 CONDUCT OF PRICE NEGOTIATIONS

22.1 Negotiations, if required, should be conducted with the L-1 bidder only, with the approval of the competent authority. However, "As post tender negotiations could often be a source of corruption, it is directed that there should be no post tender negotiations with L1, except in certain exceptional situations. Such exceptional situations would include, procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation".

22.2 In case L-1 backs out, re-tendering should be resorted to in a transparent and fair manner without considering the backed out tenderer.

22.3 Ensure that the offers are valid during the negotiation.

22.4 In all cases of price bid opening of tenders, price quoted by one tenderer will not be made known to other tenderers except to the extent that they may have become aware of price quoted by being present at the time of opening the tender, in the first instance.

22.5 If the lowest negotiated price is still considered high, decision may be taken to accept the tender or to re-tender depending upon the merits of each case. If, however, a cartel is suspected, irrespective of value, re-tendering should be resorted to.

- 22.6 In case of negotiations, with authorized dealer/distributor for proprietary items, the manufacturer's price list should be compared wherever available before finalizing the price with the dealer/distributor.
- 22.7 Adequate validity period of offer should be obtained for placement of order.
- 22.8 The composition of the PNC will be as per **Appendix-10**. The record of discussion/negotiations is to be signed by the Chairman and members of the Price Negotiating Committee (PNC) as well as authorized representative of the tenderer.
- 22.9 For critical or short supply items, price negotiations may be carried out with a view to placing orders on more than one supplier. Such decision should be referred to competent authority for approval prior to such negotiations.
- 22.10 Minutes of Price Negotiation Meeting shall record the main arguments put forward by Midhani as well as the supplier in reasonable detail.

23.0 FINANCIAL POWERS, COMPOSITION OF PNC

The composition of PNC, financial powers of various authorities are as per **Appendix-10**. The Competent authority shall exercise his power with due care and attention.

24.0 ACTION FOR MANAGEMENT APPROVAL AND ORDERING

- 24.1 The dealing officer in the Purchase department should prepare a comprehensive proposal for obtaining management approval as per the delegation of power before issue of letter of intent/purchase order/Contract/sub-contract or off-loading contract. The purchase proposal must consider the following:
- 24.1.1 The purchase proposal should as far as possible indicate the previous purchase rate and date of last purchase.
- 24.1.2 The purchase proposal for any capital item/equipment shall indicate information regarding CPAR. If the cost exceeds, the value of CPAR, detailed justification should be recorded along with re-appropriation request duly approved by the competent authority.
- 24.1.3 Preference should normally be given to tenders with firm price, timely delivery schedules, if any.
- 24.2 There are two types of acceptance of tenders viz.,
- (i) Contracts signed by both the parties.
 - (ii) Purchase orders issued by MIDHANI.

The following guidelines are to be kept in view:

- (i) Purchase of plant, machinery and equipment above Rs. 2.0 Crore in value may be covered by contracts, where considered necessary to avoid any ambiguity / scope of wrong interpretation.
- (ii) All other cases of purchase may be covered by purchase orders.
- (iii) Original Purchase Order shall be sent to the supplier with a request to send back the acknowledgement as a token of acceptance of the order.

24.3 The contracts or purchase orders should be issued only after obtaining approval of the competent authority as per delegation of powers. These should be issued only in the standard forms. The contracts/orders should not contain uncertain or indefinite liability or conditions of unusual character. The approval of competent authority for purchases should be obtained in a 'Purchase Proposal' form as per **Appendix-11**. The purchase proposal should highlight the terms and conditions on which the tenders are proposed to be accepted. A broad checklist of points i.e., comparative statement which are only illustrative but not exhaustive to be verified by Purchase Department before issue of an acceptance of tender is given at **Appendix-9**. The purchase proposal shall be sent with draft purchase orders for approval by competent authority.

24.4 Development Orders:

- (i) The total quantity to be ordered on development basis shall be determined and approved at the time of issue of limited tender enquiry.
- (ii) After evaluation / negotiation of Techno commercial bids, Technically suitable parties will be selected for placement of development order.
- (iii) The price bids of Technically suitable parties shall be opened and evaluated. The evaluated price of development parties will be ranked as DL1, DL2, DL3..... where DL1 is the lowest evaluated price.
- (iv) If the evaluated DL1 price is less than or equal to the established L1 rate (received against regular limited tender enquiry for the same item), then the development order for the approved quantity will be placed.
- (v) In case development order is to be distributed among more than one parties, the other parties will be asked to match their prices with DL1 and then the quantity will be distributed among parties.
- (vi) If DL1 price is more than the established L1 rate, the parties who accept L1 rate will be considered for placement of development orders.

24.5 Purchase order formats for Indigenous Orders and Job Works (**Appendix – 12**) & for Import Orders (**Appendix – 13**)

24.6 Distribution of Orders to bring them within the powers of lower authority shall not be resorted to.

25.0 SUB-CONTRACTING/OFF-LOADING

- 25.1 Based on the order to be executed/to be received, an overall assessment of the capacity available and required is to be done at the beginning of the year and detailed plan for off-loading/sub-contract is drawn up for approval by Director (P & M). The off-loading contract normally cover machining, grinding, slitting etc., further processing like heat treatment etc., on our material.
- 25.2 Based on the above approved plan, the planning and purchase department shall draw up a list of items/products indicating the quantum to be off-loaded in coordination with the Indenter. This list will be the basis for raising of MPR for off-loading.
- 25.3 External Resource department will be the nodal agency for all Off loading activities.
- 25.4 Purchase department will issue tenders for off-loading jobs, based on approved list of established sources besides the sources suggested by the Indenter keeping in view the estimated conversion charges, quality, quantity, terms of payment, delivery schedule, normal wastage, scrap which are returnable/non-returnable.
- 25.5 The off-loading/sub-contract order will indicate the quantum of materials to be sent to the contractor for undertaking the job. The raw materials/items should be dispatched in convenient batches as per delivery schedule indicated in Sub-contract/Off-loading order.
- 25.6 There should be periodical confirmation / reconciliation of Midhani materials/parts/moulds/equipment etc., lying with the sub-contractor/off-loading contractor, preferably twice a year by the Purchase department and the same should be sent to Finance department. This provision will also apply to materials/parts, if any, directly dispatched by our suppliers to the works of sub-contractor/off-loading contractor and from Sub-contractor to Sub-contractor.
- 25.7 The selection of the sub-contractor/off-loading contractor for off-loading contract should be done carefully taking into consideration all factors like production facilities, past performance, skill available, capacity to execute timely delivery, proximity to source of raw materials, ability to ensure safe custody of our materials etc.
- 25.8 Purchase department will obtain necessary Indemnity Bond from the sub-contractor. Dispatch of Midhani materials is to be so maintained that at any time, the value of material supplied by Midhani and lying with the sub-contractor/off-loading contractor does not exceed the value of Indemnity Bond.

However, the total cost of material dispatched should be covered by Transit-cum-Storage Insurance from the day it leaves Midhani till the day it comes back to Midhani. Stores Department will ensure insurance cover for the material dispatched.(Indemnity Bond format at **Appendix – 23**)

- 25.9 The operations carried out by the sub-contractor/off-loading contractor should be pre-inspected at the works of the sub-contractor/off-loading contractor before the material is collected / dispatched but final acceptance inspection will be accorded after due inspection at Midhani's premises and such inspection report should accompany the bill for payment.
- 25.10 For Assistance in various operations when carried out in MIDHANI, Security Deposit of 10% of the Order value should be obtained for satisfactory execution of the Order.
- 25.11 Sub-contractors shall not outsource the material without the knowledge of Midhani.
- 25.12 For all Labour contracts (assistance in various activities), the compliance of all statutory provisions of Factories Act (i.e., PF, ESI etc) is to be ensured. It is also necessary to ensure the names of contract employees to be deployed in Midhani against various contracts.
Further, Purchase dept. to ensure receipt of the following documents at the time of submission of bills duly certified by Indentor i.e., ESI & PF remittance challan, proof of wages paid and proof of attendance.

26.0 SIGNING OF PURCHASE ORDER

After sanction of purchase proposals by the Competent authority, the purchase orders / contracts / agreements will be signed by Dy General Manager (Purchase) / HOD (purchase) for order value above Rs. 5 Lakhs and by Manager (Purchase) / Sr. Manager (Purchase) for Order value upto Rs. 5 Lakhs.

27.0 PAYMENT TERMS

27.1

27.1.1 In the case of Inspection at destination, the terms of payment should normally be 100% against the party's invoice within 30 days from the date of receipt of material at the site in satisfactory condition and acceptance thereof, where Installation/ Commissioning is not involved.

27.1.2 100% payment against Proforma Invoice in exceptional cases against collection / receipt of material and certification by Indentor.

27.1.3 In case of inspection at the supplier's works before dispatch, the following terms of payment may normally be allowed:

- i) 90% payment of price of materials and 100% taxes and duties against proof of dispatch, supported by inspection certificate and
- ii) Balance 10% payment within 30 days from the date of receipt material in satisfactory condition at site and acceptance thereof.

In case, Guarantee clause is applicable, balance 10% payment shall be made after end of Guarantee period or after acceptance of material on submission of Bank Guarantee for equal amount valid till end of Guarantee period. (Bank Guarantee format at **Appendix – 19**)

27.1.4 For major equipment valuing more than Rs 2.0 Crores, payment terms may normally be as follows:

- a) 10% with order against Bank Guarantee covering interest valid till full supply of equipment, if advance is sought. (Bank Guarantee format at **Appendix – 17**)
- b) 10% against submission of drawings along with BG covering interest for similar amount valid till completion of full supply of equipment, if advance is sought. (Bank Guarantee format at **Appendix – 18**)
- c) 60% against supply of equipment with prior inspection as per Quality Acceptance Procedure.
- d) 10% against installation and acceptance of equipment (against Provisional Acceptance Certificate- PAC).
- e) 10% on issue of Final Acceptance certificate (FAC) after completion of Guarantee period.
or
10% after installation and acceptance of equipment (against Provisional Acceptance Certificate- PAC) on submission of Performance Bank Guarantee for similar amount valid till end of Guarantee period. (Bank Guarantee format at **Appendix – 19**)

Note: Interest @ 14% per annum is payable by the Supplier for the above Bank Guarantees.

However efforts should be made to obtain favorable terms of payment with the supplier depending upon the facts and merits of each case in just, fair, transparent and equitable manner.

27.1.5 In case of orders placed at DGS & D rate contract prices with rate contract holders, the terms of payment as allowed in the rate contract may be permitted. The following are the usual payment terms against DGS & D contracts:

- i) 98% against proof of dispatch after inspection and
- ii) Balance 2% against proof of receipt and acceptance.

However, the following payment terms may be adopted in DGSD contracts also:

90% against proof of dispatch after inspection and
10% against receipt & acceptance.

27.2 ADVANCE PAYMENT

27.2.1 Advance payment should be avoided as far as possible. Where such payments are to be made in exceptional cases should be against Bank Guarantee from a Nationalized Bank/ Scheduled Commercial Bank encashable at Hyderabad, INDIA. Further, such advance payments shall be interest bearing generally with interest @ 14% per annum. (Bank Guarantee format at **Appendix – 17**)

If the supply is not completed as per delivery schedule, a suitable clause for interest @ 14% per annum on the extended delivery period should be incorporated.

Any interest free advances against approved Purchase Order/ Contract shall be made with the approval of C&MD with Bank Guarantee.

Any deviation in this regard shall be with the approval of C & MD.

27.2.2 Advance payment without any Bank Guarantee in case of Procurement of special / proprietary spares and consumables, etc. will be as per D.O.P.

27.3 PAYMENT AGAINST DOCUMENTS THROUGH BANK/ LETTER OF CREDIT

In case payment terms have been agreed to as “payment against documents through Bank”, the supplier shall be asked to bear his Bank charges (for Indigenous) and all bank charges outside India (for Imports). Such orders/contracts should indicate clearly, the documents that are to be negotiated through the Bank, and provision, where possible, be made for clearance of documents within due time of Bank advice.

In addition, such orders/contracts should provide submission of advance copies of specified documents directly to MIDHANI to enable prompt retirement of documents and avoidance of demurrage/ wharfage charges.

27.4 Payments to the Vendors will be released based on the documents prescribed in the Contracts/ Purchase Orders.

- i) For 30 days Payments - Invoice in Original, CSR/ RCIV + Guarantee Certificate/ Warranty Certificate (if any) + Test Certificate (if any) + any other document prescribed in the Contract/ Purchase Order.
- ii) If inspection is involved at Supplier's works - Invoice in Original, CSR/ RCIV + Guarantee Certificate/ Warranty Certificate (if any) + Test

Certificate (if any) + Pre dispatch inspection Certificate (if any) + any other document prescribed in the Contract/ Purchase Order.

- iii) For Imported Items - Bill of Lading/ Airway bill + Invoice+ Packing List + Manufacturer's Test Certificate (if any) + Certificate showing Country of Origin (if required) + Pre dispatch inspection Certificate (if any) + Insurance intimation to our Insurer / Insurance certificate + any other document prescribed in the Contract / Purchase Order.

28.0 EARNEST MONEY DEPOSIT

EMD shall be taken,

- i) in all cases of Open tenders and in respect of service/ job contracts inside Midhani (excluding Annual Maintenance Contracts),
- ii) in case of all other Limited Tenders. However in exceptional cases this can be relaxed with the approval of Competent authority.

EMD shall be as per table in the form of Demand Draft or Bank Guarantee or payment through online with proof thereof alongwith bidder's offer.

In case of Bank Guarantee submitted,

- i. In Indian Currency - from a Nationalized Bank or Scheduled Bank encashable in India.
- ii. In Foreign Currency - from SBI, Frankfurt/ SBI, New York / any Nationalized Bank or Scheduled Bank encashable in India.

EMD if submitted in the form of Bank Guarantee, format enclosed at **Appendix- 15**.

Estimated value of Tender (Rs)	EMD amount (Rs) **
Upto 25 Lakhs *	40,000
25 Lakhs – 50 Lakhs	60,000
50 Lakhs – 100 Lakhs	1,00,000
100 Lakhs – 250 Lakhs	2,00,000
250 Lakhs – 1000 Lakhs	10,00,000
More than 1000 Lakhs	15,00,000

*Upto Rs. 25 Lakhs – EMD amount shall be either Rs 40,000 or 2.5% of the MPR/ CPAR value whichever is lower.

** For Import tenderers, EMD amount equivalent to INR shall be applicable.

29.0 SECURITY DEPOSIT

In the case of,

- (a) all open tenders 10% of Contract / Purchase Order value.
- (b) all Limited tenders other than service / job contracts inside Midhani (excluding Annual Maintenance Contracts) wherever EMD is received and Security Deposit will

be equivalent to EMD amount as per table at clause no. **28.0**. EMD received will be converted into SD for the successful bidder.

- (c) Security Deposit shall be refundable after material/ equipment is received, commissioned and accepted.
- (d) In respect of service / job contracts inside Midhani (excluding Annual Maintenance Contracts), the successful tenderer will have to pay Security Deposit @ 10% on the value of Contract/Purchase Order, refundable after three (03) months of successful completion of Service / job contracts.
- (e) Dispensing with or reduction of the quantum of security deposit may be done by the competent authority with financial concurrence.

Security Deposit shall be given in the form of Demand Draft or Bank Guarantee or payment through online with proof thereof.

In case of Bank Guarantee submitted,

- i. In Indian Currency - from a Nationalized Bank or Scheduled Bank encashable in India.
- ii. In Foreign Currency - from SBI, Frankfurt/ SBI, New York / any Nationalized Bank or Scheduled Bank encashable in India.

SD if submitted in the form of Bank Guarantee, format enclosed at **Appendix- 16**.

30.0 SALES TAX / VAT / SERVICE TAX

Sales Tax is payable on the contract price at sale point.

- 30.1 Sales Tax declaration in forms like 'D', 'C', 'G' should be provided as applicable.
- 30.2 The purchase order/contract should specify the exact rate of Sales Tax / VAT / Service Tax applicable.
- 30.3 Statutory variation imposed on the rate of sales tax / VAT / service tax during the contract period may be accepted. If the increase takes place during the extended delivery period on account of supplier's delay, such increase should be rejected.

31.0 EXCISE DUTY AND OTHER DUTIES

- 31.1 Excise duty and other duties are payable only if it has been clearly indicated the quotation and provided for in the contract/ Purchase Order. The nature of duties and applicable percentages thereof and the items on which such duties are leviable should be clearly ascertained before conclusion of orders/contracts and incorporated in the same. Payment of excise duty and other duties should be allowed only as applicable at sale point and on production of documentary evidence. Statutory variation during the extended delivery period should be rejected.

- 31.2 Purchase department should clearly identify in the purchase order/contract, Cenvatable/ Non Cenvatable items. This is required to ensure availing Cenvat benefit without fail.
- 31.3 Where the purchase is customer funded, the same should be clearly brought out on the face of the P.O.(excepting on suppliers copies) to this effect in order to facilitate proper accounting of the same by various departments.

32.0 AGENTS / AGENCY COMMISSION:

The Seller confirms and declares to the Buyer that the Seller is the original manufacturer or authorized vendor of original manufacturer or Government sponsored/ Designated Export Agencies (applicable In the case of countries where domestic laws do not permit direct export by OEMs) of the stores referred to in this offer/ Contract/ Purchase Order and has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to Buyer or any of its functionaries, whether officially or unofficially, to the award of the contract / Purchase order to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Seller agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller has engaged any such individual/firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract / Purchase Order, the Seller will be liable to refund that amount to the Buyer. The Seller will also be debarred from participating in any RFQ / Tender for new projects / program with Buyer for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract/ Purchase Order either wholly or in part, without any entitlement or compensation to the Seller who shall in such an event be liable to refund all payments made by the Buyer in terms of the Contract / Purchase Order along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for Foreign vendors) and Base Rate of SBI plus 2% (for Indian vendors). The Buyer will also have the right to recover any such amount from any contracts / Purchase Orders concluded earlier with Buyer.

33.0 FOB CONTRACTS/ORDERS

All foreign contracts/purchase orders should normally be concluded on FOB basis.

34.0 AMENDMENT TO PURCHASE ORDERS / CONTRACTS

Amendment to Purchase Orders / Contracts shall be issued subject to mutual negotiations.

Amendment to Purchase Orders / Contracts may arise due to:

- a) Change in price / payment terms
- b) Amendment to quantity
- c) Change in mode of transport
- d) Correction of errors and omissions
- e) Change in statutory requirements
- f) Change in terms & conditions

Amendment to purchase order/Contract shall be approved by,

- a)
 - i. When the amendment results in Financial implication due to “change in price”:
The approving authority will be the next higher authority as per delegation with due financial concurrence.
 - ii. When the amendment results in Financial implication due to other than “change in price”:
The same authority, who approved the original Purchase Order/ contract duly concurred by Finance, if it results in financial implication to the Company, subject to the amended value being within the financial powers as per DOP. If the amended value exceeds the delegetee power, then the same to be approved by the appropriate authority as per DOP as per the amended value.
- b) HOD (Purchase) - Where there is change in part no. for the same item, nomenclature, unit of measurement, corrections of errors/ omissions without any financial concurrence.

35.0 EXTENSION OF DELIVERY / CONTRACT PERIOD

Grant of extension of delivery/ contract period will be approved as per D.O.P., provided the same is recommended by the Indenting department. Extension of delivery period may be granted with or without reserving the Company’s right to recover liquidated damages. While granting extension of delivery period, without levy of liquidated damages, reasons thereof should be recorded. No increase in the rate on account of any statutory increase or fresh imposition of custom duty, excise duty, sales tax or on account of any other tax or duty leviable in respect of the materials and labour used in/on the work and which take place during the extended period shall be admissible.

36.0 REMEDIES FOR DELAY, NON-SUPPLY, UNSATISFACORY SUPPLIES/ EXECUTION OF CONTRACT

Remedies for,

- a) delay in supply or execution of contract,
- b) non supply or non execution of contract,

- c) Unsatisfactory supply/ execution of contract, for which supplier/ contractor is responsible.

The purchaser has the following options depending upon the circumstances of the case:

- (i) Extend the delivery with imposing of liquidated damages and other denial clauses.
- (ii) Forfeit the performance security.
- (iii) Cancel the contract.
- (iv) Invoke Risk Purchase.

37.0 LIQUIDATED DAMAGES (LD)

37.1 Liquidated Damages be levied against Suppliers/ Contractors in case of unsatisfactory supply/ execution of contract or delay in supply of materials/ execution of contract beyond the date of delivery/ completion of job specified in Purchase Order/ Contract. LD is leviable @ 1% per week or part thereof subject to a maximum of 10% of Purchase Order/ Contract price with Taxes, Duties, levies, cess etc including Erection & Commissioning charges.

37.2 Waiver of liquidated damages in respect of purchase orders/ contracts/ agreements will be done by the competent authority as per delegation of powers. Cases should be examined in detail to waive / recover liquidated damages with reference to the following factors:

37.2.1 Whether delay in supplies has resulted in payment of additional sales tax, excise duty, custom duty or other payments.

37.2.2 Whether higher prices have been specifically paid for earlier delivery.

37.2.3 Whether the delay has resulted in payment of additional freight charges.

37.2.4 Whether the contract contains pre-estimated damages clause.

37.2.5 Whether the delay has resulted in delay in supply to our customer and consequent levy of LD by our Customer.

37.2.6 A pro-forma for waiver / recovery of liquidated damages is given at **Appendix-14** which should be filled and got approved by the competent authority in accordance with delegation of powers.

37.2.7 Applicability of LD clause shall be incorporated during placement of Purchase Order/ signing of Contract stage.

38.0 CANCELLATION / SHORT CLOSURE OF CONTRACT

The purchaser may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the supplier, terminate the contract in whole or in part:

- a) If the supplier fails to deliver any or all of the stores within the time period(s) specified in the contract, or any extension thereof granted by the Purchaser.

- b) If the supplier fails to perform any other obligation under the contract within the period specified in the contract or any extension thereof granted by the purchaser.
- c) Purchaser reserves the right to cancel the Purchase Order/ contract on its own under exceptional circumstances.

39.0 RISK PURCHASE

When it is intended to cancel an order/contract/agreement which has been kept alive by the conduct of parties, it is necessary to issue notice to the contractor before actual cancellation of an order after expiry of the delivery date. Where the order is not kept alive beyond the delivery period by implication or conduct of the parties, the cancellation letter should be issued immediately by the Purchase department on the expiry of the delivery period stating that quantities undelivered on the due date are cancelled and risk purchase will be made in terms of the Purchase order/contract. In the case of cancellation of an order/ contract/ agreement the following procedure should be adopted

- 39.1 The prospects of the Contractor performing the contract should be assessed even earlier to the due date of delivery.
- 39.2 Where delivery is specified in installments whether the cancellation is for installment in default or the entire contract is to be decided as per provisions of the contract.
- 39.3 Where the supplies are not anticipated within the stipulated date, quotations are to be immediately invited which would be capable of being accepted soon after the expiry of stipulated date. The terms of such tenders should be on the same terms as in the case of original contract with the default contractor.
- 39.4 The original contract should be cancelled and the Contractor should be informed of the option exercised by the Purchaser under the relevant article of General conditions of contract and that certain quotations received are under consideration.
- 39.5 Placement of the new contract should be decided immediately thereafter.
- 39.6 Risk purchase should be made on competitive conditions and where possible after calling fresh tenders.

- 39.7 While calling for fresh tenders, the defaulting contractor should not be given an opportunity to quote for the case in question.
- 39.8 The risk purchase contract should be as far as possible, on the same terms and conditions as the original contract (apart from delivery time), i.e. the goods should be of the same specifications.
- 39.9 In order to safeguard against a second default, the defaulting contractor should in future cases be asked to furnish 10% security deposit before the contract is actually awarded to him.
- 39.10 It should be ensured as far as possible that risk purchase is concluded within 6 months of the date of breach of the original contract.
- 39.11 The defaulting Contractor should be informed of the conclusion of risk purchase agreement and the amount to be reimbursed by him towards risk purchase, specifying a date for the remittance.
- 39.12 All risk purchases are to be made only with approval of Competent Authority. Where the value of risk purchase is less than the original value, such cases need not be referred to finance for concurrence for claiming the risk purchase clause. There is no need for any fresh MPRs to be raised in such cases.

40.0 ARBITRATION

- 40.1.1 All disputes or differences arising out of or in connection with the Contract, including the ones connected with the validity of the Contract or any part thereof, shall be settled by bilateral discussions.
- 40.1.2 Any dispute, disagreement or question arising out of or relating to Contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to the Arbitration Tribunal consisting of three arbitrators.
- 40.1.3 Within Sixty (60) days of the receipt to the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.
- 40.1.4 In case of contracts with Foreign Suppliers, the third arbitrator, who shall not be a citizen or domicile of the country of either of the parties or of

any other country unacceptable to any of the parties shall be nominated to the parties within (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated by the President of International Chamber of Commerce, Paris, at request of either party but the said nomination would be after consultation with both the parties and shall preclude any citizen or domicile of any country as mentioned. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire. In respect of Indigenous contracts, an umpire will be appointed as per the Indian Arbitration and Conciliation Act 1996.

- 40.2 The Arbitration Tribunal shall have its seat in Hyderabad or such other place in India as may be mutually agreed to between the parties.
- 40.3 The Arbitration Proceedings shall be conducted in India under the Indian Arbitrations and Conciliation Act, 1996 and the award of such Arbitration Tribunal shall be enforceable at Hyderabad only.
- 40.4 The decision of the majority of the arbitrator shall be final and binding on the parties to this contract.
- 40.5 Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator/umpire shall be shared equally by the Seller and the Buyer.
 - 40.5.1 In the event of a vacancy caused in the office of the arbitrators, the party which nominated such arbitrator shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrators.
 - 40.5.2 In the event of one of the parties failing to nominate its arbitrator within 60 days as above or if any of the parties does not nominate another arbitrator within 60 days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least 30 days to request the President of the International Chamber of Commerce to nominate another arbitrator as above in respect of contracts with Foreign suppliers. In respect of Indigenous contracts, the same will be dealt as per The Indian Arbitration and Conciliation Act 1996.
 - 40.5.3 If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.
- 40.6 The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

41.0 PENALTY FOR USE OF UNDUE INFLUENCE

Penalty for use of undue influence should be imposed and an undertaking from the supplier on the line given below should be obtained.

41.1 The bidder undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees, brokerage or inducement to any person in service of the Buyer or otherwise in procuring the Contracts or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract or any other Contract with Midhani for showing or forbearing to show favour or disfavor to any person in relation to the Contract or any other Contract with Midhani. Any breach of the aforesaid undertaking by the seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the seller) or the commission of any offence by the seller or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian penal Code, 1860 or the Prevention of Corruption Act, 1947 or any other Act enacted for the prevention of corruption shall entitle the Buyer to cancel the contract and all or any other contracts with the seller and recover from the seller the amount of any loss arising from such cancellation. A decision of the buyer or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the seller.

41.2 Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the seller towards any officer/employee of the buyer or to any other person in a position to influence any officer/employee of the Buyer for showing any favour in relation to this or any other contract, shall render the Seller to such liability/penalty as the Buyer may deem proper.

Including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.

42.0 ETHICAL STANDARDS

Tenderers are expected to observe the highest standards of ethics during the procurement and execution of the Contract. In pursuit of this policy, the purchaser will reject a proposal for award, if it determines that the tenderer being considered for award has engaged incorrupt or fraudulent practices in competing for the Contract. For the purpose of this provision, the terms set forth are defined as follows:

“Corrupt practices means the offering, giving, receiving or soliciting of anything of value to influence the action in the procurement process or in contract execution and Fraudulent practices means a misappropriation of facts in order to influence a procurement process including collusive practices designed to establish prices at artificial, non-competitive levels to deprive the purchaser of the benefits of competition”.

43.0 FOLLOW-UP OF ORDERS

There should be a regular follow up of orders placed as per the conditions of contract to ensure delivery by stipulated date. Where delivery dates are due to expire the supplier should be asked to indicate the dates by which they expect to supply the material and extensions in deliveries may be granted subject to right to levy of liquidated damages, if the original order has L.D. clause. Wherever mentioned in the contract, the supplier shall submit monthly progress reports till complete execution of the Contract.

44.0 REJECTED GOODS

The rejected goods at MIDHANI premises will lie at the risk of the Vendor. They should be replaced immediately on receipt of an inspection memo showing the details of goods rejected. In case the rejected goods are not replaced within six weeks from the date of receipt of the inspection memo, the Purchaser is not responsible for any loss, damage and theft, and in addition, the Purchaser reserves the right to recover such amount as may be assessed on account of storage and incidentals or any other charges the Purchaser may have incurred.

45.0 RE-ORDERING

45.1 In case of reordering of items which are lost or damaged during transit and covered by insurance claims for total loss, the Stores department will send a copy of the Insurance Survey report to Purchase department and the Indenting Officer. The Purchase department will refer such Survey Reports to the Indentor for his advice as to whether the item is to be re-ordered or the case can be treated as closed. On the basis of the recommendations of the indenting Officer, Purchase department shall take appropriate procurement action.

45.2 Re-ordering of the item may be done where the survey report has specifically stated that the item/items are totally lost.

46.0 BUY BACK OFFER

When it is decided with the approval of the competent authority to replace some existing old goods with their newer and better versions / substitutes, the department may trade the existing old goods while purchasing the new ones. For this purpose, suitable clauses are to be incorporated in the tender enquiry document so that the interested tenderers formulate and submit their tenders accordingly. Provision should also be kept in the tender documents to permit the interested tenderers to inspect the old goods to be traded through this transaction.

Appropriate provision should also be kept in the tender document allowing the Purchase Department to reserve its right to trade or not to trade the old goods while

purchasing the new ones and the tenderers are to be asked to frame their quotations accordingly covering both the options.

Depending on the value and condition of the old goods to be traded, the time frame for as well as mode of handing them over to the successful tenderer should be decided and relevant details in this regard suitably incorporated in the tender document.

47.0 MAINTENANCE CONTRACT

47.1 Some goods, especially sophisticated equipment and machinery need proper maintenance for trouble free service. For this purpose, the purchase department may enter into maintenance contract. It must however be kept in mind that maintenance contract is to start after the expiry of the warranty period, during which period the goods are to be maintained free of cost by the supplier.

47.2 Maintenance contract may be entered into either with the manufacturer / supplier of the goods or with a competent and eligible firm, not necessarily the manufacturer/ supplier of the goods in question. The purchase department should decide this aspect on case to case basis on merit.

47.3 The details of the services required for maintenance of the goods, the required period of maintenance and other relevant terms and conditions including payment terms are to be incorporated in the tender enquiry document. The terms of payment for the maintenance service will depend on the nature of the goods to be maintained as well as the nature of the services desired.

47.4 Sometimes, the maintenance contractor may have to take the equipment / machines or some components of the equipment / machines to its factory for repair etc. Before handing over any major equipments / machines, suitable Indemnity Bond is to be obtained from the firm to safeguard purchaser's interest.

47.5 Sometimes, during the tenure of a maintenance contract, especially with a longer tenure, it may become necessary for the purchase organization to withdraw the maintenance contract due to some unforeseen reasons. To take care of the same, there should be a suitable provision in the tender document and in the resultant contract.

48.0 TURNKEY CONTRACT

A turnkey contract is a mix of goods contract and works contract. Generally, in the tender enquiry documents for a turnkey contract, the purchase department specifies the performance and output required from the plant proposed to be set up and broadly outlines the various parameters it visualizes for the desired plant. The inputs and other facilities, which the purchaser will provide to the contractor, are also indicated in the tender enquiry document. The contractor is to design the plant and quote accordingly.

The responsibility of the contractor will include supplying the required goods, machinery, equipment etc. needed for the plant; assembling, installing and erecting the same at site as needed; commissioning the plant to meet the required output etc., as specified in the tender enquiry documents.

49.0 SUBSIDIARY INSTRUCTIONS/MODIFICATIONS/ALTERATIONS

Chairman & Managing Director will issue subsidiary instructions, standard pro-forma / forms and specify the competent authorities referred to in these rules. Chairman & Managing Director is authorized to effect such modifications or alteration from time to time as may be necessary subject to submission of a report to the Board of Directors for information on such modifications / alterations at the immediate succeeding Board meeting.

The powers covered by the Purchase Policy shall be exercised with due compliance of the statute, stipulations, financial propriety, audit norms, systems and procedures.

50.0 PURCHASE / PRICE PREFERENCE

Government directives, issued from time to time, lay down policies regarding Purchase/ Price preference to be given to purchases from PSUs and MSMES shall be taken note of while carrying out price comparisons.

51.0 RECORD RETENTION PERIOD

Purchase Orders and connected correspondence/records shall be maintained by Purchase Department for a period of minimum five (05) years.

52.0 SOLVENCY CERTIFICATE

Solvency Certificate shall be asked for all service contracts as well as for job contracts within Midhani excluding Annual Maintenance Contracts. For other tenders, Solvency Certificate shall be asked if indicated in Indent. The value of Solvency shall be as per table given below:

Estimated value of Tender (Rs)	Solvency Certificate amount (Rs)
Upto 1.0 Lakh	40,000
Above 1.0 Lakh – 2.5 Lakhs	75,000
Above 2.5 Lakhs – 5.0 Lakhs	1,50,000
Above 5.0 Lakhs – 10.0 Lakhs	3,00,000
Above 10.0 Lakhs – 20.0 Lakhs	6,00,000
Above 20.0 Lakhs – 40.0 Lakhs	12,00,000
Above 40.0 Lakhs – 100.0 Lakhs	25,00,000
More than 100.0 Lakhs	50,00,000

53.0 INTERPRETATION OF PURCHASE PROCEDURES

- 53.1 The procedure prescribed in the purchase manual is to enable the persons involved in the procurement process to have a fair and transparent procurement giving equal opportunity to all the vendors. Considering procurement is a complex process and every procurement being unique, all possible conditions cannot be foreseen and defined in the Purchase procedure. The Purchase Manual is for guidance and provides broad frame work of policy. Persons associated with procurement process are expected to take decisions in a given situation and move forward at the same time taking due care and attention in their action. All persons involved in procurement process shall be considered acting in good faith (done with due care and attention), unless proved otherwise, in discharge of procurement function.
- 53.2 Keeping the objective of timely procurement of items and services to enable timely delivery of supplies in the most competitive price, there could be need for interpretation of the purchase procedures for peculiar situations faced during procurement process to meet urgent requirement. Under these circumstances the decision taken in good faith by the Purchase Department and approved by competent authority as per DOP is considered as final.
- 53.3 Amendment to Purchase Policy & Procedure:
Any amendment to the Purchase Policy & Procedure, if considered, shall be with the approval of Management.
- 53.4 The manual shall be reviewed every five years or earlier.

54.0 e- Procurement

54.1 Introduction:

e-Procurement Portal (<https://eprocuremidhani.gov.in>) is designed, developed and hosted by **National Informatics Centre (NIC)**.

This initiative is taken by MIDHANI to facilitate the bidders for easy submission of their bids and to bring more transparency, reduce cycle time, on-line provision of addendums and changes to documents to bidders/ suppliers and also on-line acknowledgement of bids.

To participate in e-Tenders of MIDHANI, vendors are required to register with MIDHANI e-Procurement system at <https://eprocuremidhani.gov.in>. For registration, vendors are required

to obtain Digital Signature Certificate (DSC) Class-III with the organization name from the empanelled Certifying Authorities (CA's) of India (<http://cca.gov.in>, which provides details of CA's).

54.1.1 The Main Objectives of e-Procurement are:

- To bring more transparency in the procurement system,
- To facilitate faster decision making
- To provide opportunity for wider participation
- To make submission of the Bids by the bidders/ suppliers easier
- To facilitate on-line provision of Addendums and changes to the tender documents to bidders / suppliers.

54.1.2 The major features of the software include:

- Enhanced Transparency
- Adherence to IT ACT 2000
- Adhering to procurement Guidelines of CVC
- Accessibility of Information to all
- Secured storage of Data
- User Friendly Software
- Digital Signing of all uploaded documents and bids
- Two factor authentication
- The security guidelines of CVC on e-Procurement circulated from time to time

54.2 Bidders/ Suppliers Requirements:

54.2.1 System Requirements: The minimum system requirement for e-Procurement operation is mentioned in home page of e-Procurement Portal. Any change /enhancement related to system requirement are updated on e-portal.

54.2.2 Digital Signature Certificate (DSC): DSC Class III with organization name is a mandatory requirement for suppliers. DSC may be obtained from any of the licensed CA's for registration and to participate in e-Procurement. (To visit <http://cca.gov.in> for further details).

54.2.3 Registration of Bidder/Supplier:

a) Detailed Bidder registration procedure is defined in e-procurement web portal under Bidder Manual Kit available at Home page.

b) The bidder needs to have a valid Digital Signature Certificate (DSC) Class III with the organization name for Registration in e-Procurement portal and for participation in Tendering activities.

54.3 Departmental User Registration:

i. Creation of Tenders: Tender is to be created and hosted in the e-Procurement portal by Purchase Department in the system.

- ii. Selection of Vendors: The procurement officer has to select the vendor(s) already registered in the e-procurement portal with DSC in case of Limited / Proprietary/single tenders based on list of vendors in approved MPR/CPAR.
- iii. Tender Inviting Authority (TIA): TIA will create Tender documents, standard templates, upload the documents, vendor selection, Tender modification and corrigendum (Purchase officer).
- iv. Tender Opening Authority (TOA): Tender Opening Authority shall have encryption key which will be used for decrypting the bids (Purchase Officer & Finance Officer).
- v. Tender Opening Committee (TOC): Tender opening committee shall have DSC for tender opening. Opening will be done by Purchase and Finance Dept. All Technical and Financial evaluations of documents shall be as per the existing procedure.

54.4 Scope of e-Procurement

54.4.1 The implementation of e-Procurement system is to streamline and automate it's procurement process which can be effectively utilized.

54.4.2 e-Procurement is applicable to carry out e-tendering activities (Vendor enrolment in e-Procurement portal, Tender Creation, Online Bidding, generate Comparative Statement).

54.5 Modes of Tendering:

- i. Open Tender: For open tender, press advertisement shall be given stating that tender is available on <https://eprocuremidhani.gov.in> and all the documents are available on the portal.
- ii. Limited Tender: The documents are available for public viewing, however only the bidder from the listed sources against the tender can participate.
 - (a) Vendors from the listed sources approved by competent authority those who are enrolled with DSC in e-procurement portal at the time of floating are allowed to participate.
 - (b) Bidders from the listed sources who are not enrolled with DSC at the time of publication but completed DSC enrolment process before the due date. Those bidders shall be included for participation in the tender by issuing corrigendum with approval of competent authority.
- iii. Closed Limited: The documents are available for viewing as well as tender participation only by selected/listed Vendors.

54.6 Tender Creation:

- Single Bid.
 - Two Bids.
- a. Purchaser shall select the type of Bids (Single/Two).
 - b. Purchaser shall update relevant information of Tender as per the format.
 - c. Purchaser shall fill the Technical & Price Bid Opening Date and Time.

- d. After the Technical Bid Opening Date and Time is reached, only the Technical Bids can be opened and downloaded.
- e. After completion of technical evaluation of the offers received, purchaser has to update the qualified suppliers in the system for the opening of price bids.
- f. In case of modifications in Opening Date and Time, revised Opening Date and time can be entered in the system against the subject Tender by issuing corrigendum.
- g. The system will send e-mail alerts to the qualified suppliers about the Price Bid Opening Date.
- h. Only after the Price Bid Opening Date and Time is reached, the Price Bids can be opened and downloaded for evaluation.

54.7 Internal Approvals:

- i. Approvals for Enquiry are needed to be taken outside of the e-Procurement system as per existing procedure.
- ii. The existing procedure is required to be followed for approval in case of Re-tendering/ single offer situation/ negotiations.
- iii. Exceptions: Waiver from e-Tendering, in special cases, for the tenders valuing above the threshold value for e-Tendering can be accorded by the Head of Purchase with recorded reasons.

54.8 Submission of Tender:

- i. When Tender is hosted, the system will generate e-mail alerts to the concerned suppliers in case of Limited Tender. In case of Open e-Tender through e-procurement, the information will be available on MIDHANI website and e-procurement portal. Offers of open e-Tender will be accepted only through e-procurement portal, offline offers are summarily rejected.
- ii. The system allows the bidder to submit bids only in the formats associated with the tender. The system will allow the bidder to submit, technical and commercial bids separately and upload relevant certificates and supporting documents.
- iii. The bidder is allowed for multiple submissions of bids till the closing date & time. However, the system will consider only the last bid submitted by the bidder. At the same time, system will not allow to know number of bids received before the closing date & time to MIDHANI.

54.9 Closing of Bid Submission:

- i. The System will close the bid submission automatically in accordance with closing date and time specified in the tender. In cases of unexpected/ genuine server related issues, Purchase Department has provision to take a decision to extend the closing time in the form of corrigendum to the Tender. The System will not allow bidder to submit any bids after the due date & time / where a tender is closed.
- ii. Addendum / Corrigendum to Tender: The system has provision for issuance of Addendum / Corrigendum for modifications in tender Terms & conditions and extension of the due date & time before the due date & time of the tender. However, the system will not allow preponement of the tender due date in case of any hosted tender through e-Procurement Portal.

54.10 Tender Opening / Evaluation:

- i. The System allows opening of Technical bids by the Tender opening committee using DSC only after reaching the opening date & time. Bids will be opened initially by Login in the e-Portal and authenticating with DSC.
 - ii. In case of two bid system, vendors can see only No. of vendors participated with name after opening of technical bids from their location.
 - iii. After technical evaluation and recommendation, a email alerts are sent to qualified bidders. Price bids of technically accepted bidders are opened. On opening of Price bids, bidders can see each other's bids (Technical and Price bids).
 - iv. The system will generate Technical / Price Comparison statement based on the predefined Technical / Price bid format.
 - v. The system will create log of all the tendering activities carried out by Department Users and bidders against the Tender with date & time. The log will be available against each Tender for review as and when required.
 - vi. Bid Clarification Module: The facility is available for Department users to seek clarifications from the bidders after opening of bids. The audit of such correspondence is maintained in the portal.
- If Tender opening officer is not available on the Tender opening day, the tender can be opened on the next working day.

54.11 Hard Copies of the documents:

- i. All the documents such as Bid documents received from the bidders, compliance statement, Tender Logs, bidder Logs of all activities pertaining to Tenders etc. will be available in the e-Procurement system. Bid documents will be retained in the system.

54.12 Tender Fee and EMD Payment: Tender Fees and EMD will be submitted off-line and bidder shall ensure that the same is received on or before the closing date/time. Offers where Earnest Money Deposit is not received before the due date and time, would be considered as technically rejected. MIDHANI will not be responsible for any transit/ postal delay in receipt of EMD.

55.0 Force Majeure clause

- a. Neither party shall bear responsibility for the complete or partial non-performance of any of its obligations (except for failure to pay any sum which has become due on account of receipt of goods under the provisions of the present contract), if the non-performance results from such Force Majeure circumstances as Flood, Fire, Earth Quake and other acts of God as well as War, Military operation, blockade, Acts or Actions of State Authorities or any other circumstances beyond the parties control that have arisen after the conclusion of the present contract.
- b. In such circumstances the time stipulated for the performance of an obligation under the present contract is extended correspondingly for the period of time of action of these circumstances and their consequences.

- c. The party for which it becomes impossible to meet obligations under this contract due to Force Majeure conditions, is to notify in written form the other party of the beginning and cessation of the above circumstances immediately, but in any case not later than 10 (Ten) days from the moment of their beginning.
- d. Certificate of a Chamber of Commerce (Commerce and Industry) or other competent authority or organization of the respective country shall be a sufficient proof of commencement and cessation of the above circumstances.
- e. If the impossibility of complete or partial performance of an obligation lasts for more than 6 (six) months, either party hereto reserves the right to terminate the contract totally or partially upon giving prior written notice of 30 (thirty) days to the other party of the intention to terminate without any liability other than reimbursement on the terms provided in the agreement for the goods received.

56.0 FALL CLAUSE

In cases where contracts have to be concluded with the firms, whose rate contract with DGS&D/other central procurement agencies has expired and renewal of RC has not taken place, a 'fall clause' should be incorporated in the Supply Order/Contract to the effect that during the currency of the Supply Order/Contract, in case rates are found to be lower on conclusion of rate contract, the lower rates as in the rate contract shall be applicable.

		MISHRA DHATU NIGAM LIMITED				PUR/REC/002			
Capital Procurement cum Appropriation Request (CPAR)				EXPRESS/NORAML					
Dept Code				Budget Provision					
CPAR No.				CPAR Control No.					
CPAR Date				Date					
Indent No.				Purchase Dept's Ref.					
Sl. No.	Material Code No.	Specifications <i>(Please make use of Annexure-1, if the space is not sufficient)</i>			Quantity	Estimated Value (Rs.)	Lead time for supply	Delivery required by	
New / Replacement / Modification Revamping / Balancing / Others				No. of Similar equipment available					
Source : Indigenous / Import				Last Purchase details P. O. No:		Date:		Supplier Name:	
Proprietary		Reasons/ Justification for procurement :		Suggested sources : (Please make use of Annexure)		Stores endorsement / Stock position a) Central Stores b) Sub stores c) Shop floor d) Pipe-line quantities			
Single									
Limited Tender									
Global / Advt.									
Indentor's Name		Name of shop-incharge/Head/GM		Recommended		Recommended			
Signature		Signature		Signature					
Date		Date		Date					
Designation		Designation		Designation		GM		Director	
For Accounts Dept. use		Financial concurrence							
Budget Provision		Signature with date & designation							
Year									
Total provision									
Already appropriated									
Balance		Approving Authority's Signature							
Value of present CPAR									
Balance									
Signature with date & designation									

MIDHANI		MISHRA DHATU NIGAM LIMITED				PUR/REC/001	
		(Material Purchase Requisition (MPR) STOCK / NON-STOCK ITEM				EXPRESS/NORMAL	
Dept Code				MPR Control No.			
MPR No.				Date			
MPR Date				Purchase Dept's Ref.			
Indent No.							
Sl. No.	Material Code No.	Specifications <i>(Please make use of Anneure-1, if the space is not sufficient)</i>			Quantity	Unit	Estimated Value (Rs.)
		Acceptance Criteria:					
Lead time for Supply	Delivery required by	PENDING				Monthly/ Annual Consumption	
		MPR/PO No. & Date, Supplier Name			Quantity		
Proprietary		Reasons / Justification for procurement	Suggested Sources:		Stores endorsement / Stock position a) Central Stores b) Sub Stores c) Shop floor d) Pipe-line quantities		
Single							
Limited							
Global / Advt.							
Indentor's Name		Name of shop-Incharge/Head/GM			Approved		
					DGM	Director	C & MD
Signature		Signature		Signature			
Date		Date		Date			
Designation		Designation		Designation	DGM	Director	C & MD

PROPRIETARY ARTICLE CERTIFICATE

Particulars of Equipment / Material _____

The Equipment / Material indented in CPAR / MPR

No. _____ Dated _____ is

manufactured by

M/s _____

No other make is acceptable for the following reasons:

- 1.
- 2.
- 3.

Signature of the Indenting Officer

Thro: Dept. Head

GENERAL MANAGER

To
Dy. General Manager (Purchase)

 <p>MISHRA DHATU NIGAM LTD (A Government of India Enterprise) P.O. Kanchanbagh, HYDERABAD – 500 058 PHONE: FAX:</p>	<p style="text-align: center;">INVITATION TO TENDER (INDEGENOUS STORES)</p> <p>No. MDN/PUR/ Date: DUE DATE : TIME: 10.30 hrs OPENING DATE: TIME: 10.35 hrs</p>
	<p><u>Your Offer should contain the following information.</u></p> <ol style="list-style-type: none"> 1) Unit Rate both in figs & words and Price Basis 2) Validity Period of the offer 3) Quantity / Trade discount, if any 4) Delivery Schedules 5) Mode of Dispatch 6) Terms of Payment 7) Taxes & Excise/Octroi applicable with rate percentage

Dear Sirs,

You are requested to send your offer **in duplicate** for the following items, as per the Terms and Conditions mentioned herein, in sealed envelop superscribed with Invitation to Tender No. and Due Date.

Sl. No.	Material Description & Specification	Estimated Requirement		Delivery Required by
		Qty	Units	

PLEASE READ THE TERMS & CONDITIONS GIVEN OVERLEAF:

1. Offer your firm lowest prices, as price negotiations will not normally be held.
2. Envelopes shall be invariably super scribed with enquiry No. & Due Date.
3. Indicate your CST / APGST / TIN No. in your offer.
4. Validity of the offers shall be 90 days.
5. PAYMENT TERMS SHALL BE WITHIN 30 DAYS FROM THE DATE OF RECEIPT AND ACCEPTANCE OF THE MATERIAL.
6. The price shall be quoted on F.O.R. Midhani basis.
7. Tenders will be opened on the date & time indicated above in the presence of Tenderers who choose to be present.
8. **Please adhere to delivery schedule strictly; extension of delivery period will be given only with imposition of liquidated damages.**
9. **Please confirm whether your organization is a MSME unit or MSME unit owned by SC/ST entrepreneur. If yes, please mention the category and submit latest valid documentary proof in the form of a certificate in this regard for extending benefits as per Government guidelines.**

Thanking you,

Yours faithfully,
For MISHRA DHATU NIGAM LIMITED

TERMS AND CONDITIONS FOR TENDER

1. Any order resulting from this invitation to tender shall be governed by our General conditions of contract and the supplier quoting against this enquiry shall be deemed/ to have read and understood the same.
2. Where counter terms and conditions have been offered by the Tenderer.
3. The purchaser shall not be governed by these unless specific acceptance have been, given in writing in the order by the purchaser
4. The offer should be complete in all respects. Full particulars and descriptive literature and drawings should be forwarded along with the quotation. The make of the items offered should be clearly specified. Materials should be offered strictly confirming to our specifications. The deviations if any, should be clearly indicated in the quotation. Test certificates must be produced, wherever required where stipulated samples should be forwarded along with the quotation Material confirming to IS will be preferred.
5. PRICE: The prices must be unit shown inclusive of packing, forwarding, insurance, Octroi duty and delivery charges and should be on FOR destination basis. Offers from local suppliers should be for free delivery at our stores
6. TAXES AD SUTIES:
 - a. **If Excise duty or any charges are payable by the Purchaser, the same must be specifically stated in the offer and payment of such Excise duty and other duties shall be allowed as applicable at sale point on the production of documentary evidence.**
 - b. SALES TAX: Sales Tax will be paid by the purchaser at the sale point if legally leviable at the rate ruling on the date of supply. The percentage of sales Tax applicable should be indicated. Central sales Tax will be payable at concessional rates against "C" form on materials covered under Sales Tax Registration.
7. DELIVERY: Preference will be given to ex-stock offer. Suppliers submitting offer on forward, delivery basis must indicate the earliest guaranteed delivery date by which the material will be dispatched/ delivered free at our stores from the date of receipt of order. Offers indicating terms such as 'EX-Stock' subject to prior sale, goods remaining unsold as early as possible will not be entertained. The date after the third day of issue or the order will be considered as the date of receipt of the order.
8. **RIGHT OF ACCEPTANCE: The purchaser does not bind himself to accept the lowest or any other tender and reserves the right of accepting the whole or any part of the tender or portion of the quantity offered. Within a period of six months from the date of completion of the order, the Purchaser further reserves the right to place order on the successful tenderer for an additional upto 100% of the original ordered quantity.**
9. TERMS OF PAYMENT: Payment of all the bills will be made within a period of 30 days from the date of receipt and acceptance of the material at site.
10. INSPECTION: The Purchaser reserves the right to get the Stores inspected before commencement of supplier/ or on arrival at our factory by an inspecting officer authorized by the Purchaser. The Tenderer should be in a position show and/ or send samples of material on demand.
11. PACKING: The stores should be securely packed and properly marked to avoid loss or damage in transit by Rail /Road /Air.
12. **TO RECOVER LIQUIDATED DAMAGES: In the event of unsatisfactory delayed or non supply of materials, the supplier shall be liable to pay by way of liquidated damages at the rate of 1% of the total contract price per week or part there of subject to a maximum of 10% of the contract price without prejudice to the right of the purchaser to take any other action. The amount shall also be recoverable from any other contract on account of the supplier.**

13. RISK PURCHASE: The supply of all items must be completed satisfactory and within the specified period in the order failing which, the Purchaser reserves the right to purchase stores from other sources at the suppliers cost and risk.
14. GUARANTEE: The supplier shall guarantee the store supplied in respect of good design, quality and workmanships for a period of 12 months from the commissioning or 18 months from the date of supply whichever is earlier.
15. VALIDITY: The offer should be valid for a minimum period of 90 days from the opening of quotation.
16. In case the item offered is covered by DGS & D Rae Contract, the rate should be as per R/C and a copy of R/C should be enclosed with the offer.

E-PAYMENT TO VENDORS

Midhani wishes to switch over to the E-Platform for making remittance to the vendors against released on them from time to time. The remittances will be made by effecting E-Payment through banking channels instead of issuing cheques. Being a regular and approved vendor, you are requested to furnish the following details at the earliest to enable Midhani to effect E-Payment through banking channels against the orders placed on you.

1. Name of the Bank
2. Name of the Branch
3. Address of the Bank
4. Mode of Payment preferred – RTGS/NEFT
5. Bank's MICR Code
6. Beneficiary's Bank Branch IFSC Code
7. Beneficiary's Account type (Current Account or Savings Account)
8. Beneficiary's Name
9. Beneficiary's Contact Numbers

We seek the above information to build up a data based on which we could migrate to E-Payments instead of issue of cheques.

INVITATION TO TENDER FOR IMPORTED STORESMISHRA DHATU NIGAM LIMITED

(A GOVERNMENT OF INDIA ENTERPRISE)

P.O. KANCHANBAGH, HYDERABAD – 500 058 (INDIA)

Phone: FAX:

E-mail:

NO: MDN/PUR/

DATE:

DUE DATE: at 10.30 Hr IST.

OPENING DATE: at 10:35 Hrs. IST.

(FOR TECHNO-COMMERCIAL BID)

Dear Sirs,

You are requested to send in duplicate your lowest offer on F.O.B. Port of loading basis for the following items as per terms and conditions mentioned at Annexure-II in sealed envelope superscribed with this Invitation to Tender No. and due date. In the case of offers from U.S.A., the F.A.S. prices may be quoted.

SL. NO	DESCRIPTION AND SPECIFICATION	QTY	SHIPMENT SCHEDULE
1	NOTE: IN CASE, TENDERER UNABLE TO SUBMIT THE QUOTATION, PLEASE SEND THE REGRET LETTER BY FAX/MAIL.		

- Tenders should be submitted in two parts separately i.e. Techno-Commercial Bid and Price Bid.
- Technical Bid and price Bid shall be received at our end on or before the due date as indicated above.
- Price bids of technically acceptable tenderers will be opened at a later date with prior intimation.
- Please confirm that you can supply material as per tender specification without any deviation.
- Please arrange to FAX us a copy of Manufacturer's Test Certificate indicating typical composition of all the elements mentioned in our specification as part of technical bid failing which your offer is liable to be rejected.
- Please acknowledge the receipt of our enquiry.
- Please indicate the validity of Price Bid in your Technical Bid itself.
- Please indicate minimum order quantity (MOQ) as buyer reserves the right to vary the tender quantity.

-
- Consignment is to be booked by
 - Port of Discharge :
 - Place of Delivery :
-

Thanking you,

Yours faithfully,
For Mishra Dhatu Nigam Limited

ANNEXURE-

GENERAL TERMS & CONDITIONS FOR IMPORT OFFERS**1. IMPORTANT DETAILS :**

The tenderer shall indicate / furnish the following in his offer :

- i. Guaranteed chemical composition / specification.
- ii. Manufacturer's Name & Address
- iii. Country of origin of goods.
- iv. An undertaking to furnish manufacturer's Test / Analysis certificate covering all elements specified in the tender for each consignment.
- v. **The Tenderer shall furnish typical analysis along with offer with respect to impurities listed in the tendered specifications.**
- vi. Delivery period
- vii. Minimum order quantity, if any, applicable.
- viii. Mode of packing.
- ix. Net weight and Gross weight.
- x. Technical Literature / Catalogue.
- xi. Details of Shelf life, if any, applicable for the goods offered.
- xii. FOB / FAS prices indicating port of loading.
- xiii. Your Banker's Name & Address.
- xiv. A confirmation that the price quoted is your lowest export price and is the same as you would normally quote to Government departments and other favoured customers.
- xv. TARIFF HEAD UNDER H.S. (HARMONISED SYSTEM)

Note : Tenders received without the above details are liable to be rejected summarily.

2. CREDIT RATING CERTIFICATE :

- a) Tenderers shall furnish credit rating obtained by them from any reputed credit rating agency along with offer.

b) DEALERSHIP CERTIFICATE

Dealers/stockists traders shall furnish dealership certificate along with offer.

3. AGENCY COMMISSION:

We are a Government of India Enterprise. It is our policy to deal with the foreign suppliers/manufacturers directly without associating any of their Indian agents or payment of any agency commission. You are therefore requested to quote your price

Contd.....p/2

without any agency commission, passing on this benefit to the Purchaser which is Government of India Enterprise. Please therefore specifically state in your offer that the price quoted by you is net and NO agency commission is payable to any Indian agent.

4. **VALIDITY**

The offer shall be valid for a period of 90 days from the date of tender opening.

5. **PRICES :**

Preference will be given to FIRM prices, but should the quoted prices be subject to variation, the price variation clause should be detailed in the offer.

6. **DISCOUNT :**

Prices quoted should be applicable to purchases by Manufacturers and the manufacturer's discount, if any, should be indicated in the offer.

7. **DESCRIPTION & SPECIFICATION :**

The description and specification offered in the offer will be binding on the Tenderer and no alteration thereof will be permitted.

8. **PURCHASER'S RIGHT :**

The purchaser reserves the right to reject or to accept any Tender, either in full or in part, without assigning any reasons whatsoever.

9. **AUTHORITY TO SUBMIT TENDER :**

The signatory to the Tender will be deemed to have the authority to submit the Tender. The Tender will be binding on the tenderer and no alteration will be permitted.

10. **TERMS & CONDITIONS OF TENDER :**

Any Purchase Order placed against the offer against this Invitation to Tender shall be subject to the General Conditions of this Invitation to Tender.

11. **TERMS OF PAYMENT :**

Cash against Shipping Documents (D/P). In the event of order, the Tenderer is requested to furnish shipping documents through their Bank to our bank i.e., Andhra Bank, BDL campus branch, P.O. Kanchanbagh, Hyderabad - 500 058.

Contd.....p/3

-3-

All Bank charges outside India for seller's account and inside India for buyer's account. We prefer offers with "D/P" payment terms.

For payment by Irrevocable Letter of Credit, all bank charges outside India, including confirmation charges, if any, for seller's account and within India for Buyer's account.

Clause No. 14 regarding Documents required for payment also refers.

12. ARBITRATION :

Any dispute relating to construction, meaning and operation or effect of this contract or the breach thereof shall be settled by Arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and award made in pursuance thereof shall be binding on the parties.

13. JURISDICTION :

All questions, disputes or differences arising under, out of or in connection with the contract shall be subject to the exclusive jurisdiction of court within local limits of Hyderabad, Andhra Pradesh, India.

14. DOCUMENTS REQUIRED FOR PAYMENT :

The Tenderer shall confirm that in the event of order, the following documents will be furnished for each lot/consignment for purposes of payment:-

- a) Clean on Board **Bill of Lading** of conference line vessel as defined in INCO TERMS 2000.
- b) Shipping Company Certificate that shipment can be arranged by sea worthy vessel which is not more than 25 years old classed 100 A1 by Lloyds or equivalent classification Society and approved by General Insurance Corporation of India.
- c) Signed Invoice for the goods despatched.
- d) Certificate of Origin.
- e) Packing List
- f) Test / Manufacturer's Certificate.

15. INSURANCE :

Marine Insurance Coverage will be arranged by the Purchaser and hence tenderers should quote only FOB/FAS Price.

MISHRA DHATU NIGAM LIMITED P.O. Kanchanbagh, HYDERABAD-500058 PHONE: FAX: Email-	INVITATION TO TENDER (TWO-BID) No. CAPITAL ITEMS Date: DUE DATE : TIME: OPENING DATE : TIME: (Techno Commercial Bid)
	<u>Your Offer should contain the following information.</u> 1. Unit Rate both in figures & words and Price Basis 2. Validity Period of the offer 3. Quantity / Trade discount, if any 4. Delivery Schedules 5. Mode of Dispatch 6. Terms of Payment 7. Taxes & excise / Octroi applicable with rate percentage.

Dear Sirs,

You are requested to send your offer in duplicate for the following items, as per the Terms & Conditions mentioned herein, in sealed envelop superscribed with Invitation to Tender No. & Due Date.

Sl. No	MATERIAL	Estimated Requirement		Delivery Required
	DESCRIPTION & SPECIFICATION.	Unit	Qty	
	NOTE : 1. OFFER WITH OUR TERMS & CONDITIONS ONLY WILL BE CONSIDERED. 2. SPECIFICATION AS PER ANNEXURE-I. 3. GENERAL TERMS & CONDITIONS AS PER ANNEXURE – II. 4. PROCEDURE TO BE FOLLOWED FOR SUBMISSION OF TENDER AS PER ANNEXURE – III.			

Thanking you.

Yours faithfully,
For MISHRA DHATU NIGAM LTD.

Annexure-I to Appendix-6 (Technical Specification) - Not included in the format.

GENERAL TERMS AND CONDITIONS

1. Any Order resulting from this invitation to tender shall be governed by our General Terms and Conditions of Contract and the supplier quoting against this enquiry shall be deemed / to have read and understood the same.
2. Where counter terms and conditions have been offered by the Tenderer, the purchaser shall not be governed by these unless specific acceptances have been given in writing in the order by the Purchaser.
3. The offer should be complete in all respects. Full Particulars and descriptive literature and drawing should be forwarded along with the quotation. The maker of the items offered should be clearly specified. Materials should be offered strictly conforming to our specifications. The deviations if any should be clearly indicated in the quotation. Test Certificates must be produced, wherever required. Material conforming to I.S. will be preferred.
4. **PRICES**
Price Basis: FOR Midhani, Hyderabad basis.

The Prices must be per unit shown inclusive of packing forwarding insurance Octroi duty and delivery charges and should be on FOR destination basis, Offers from local suppliers should be for free delivery at our Stores.
5. **TAXES AND DUTIES:**
The Tenderer shall indicate their Central & State Sales Tax Registration Nos. & date in the quotation.
 - i) If Excise duty or any other charges are payable by the Purchaser, the same must be specifically stated in the offer and payment of such Excise Duty and other duties shall be allowed as applicable at sale point on the production of documentary evidence. The Contractor has to furnish transporters copy of Invoice along with supplies for availing Cenvat credit.
 - ii) SALES TAX: Sales Tax will be paid by the Purchaser at the sale point if legally leviable at the rate ruling on the date of supply. The percentage of Sales Tax applicable should be indicated. Central Sales Tax will be payable at concessional rates against "C" form on materials covered under Sales Tax Registration.
6. **DELIVERY:**
Within _____ months from the date of receipt of Purchase Order.
7. **TERMS OF PAYMENT:**
90% Payment against despatch after inspection and balance 10% after receipt & acceptance of material at our end against submission of Performance Bank Guarantee for 10% value of order.

8. **INSPECTION:**
Pre-despatch Inspection shall be carried out at Supplier's works by the Purchaser as per Description & specification at Annexure-I.
9. **GUARANTEE:**
A Guarantee Certificate for the equipment for 12 months from the date of acceptance of the equipment or 18 months from the date of supply whichever is earlier is to be submitted towards any design, fabrication, workmanship defects etc. In case, any defects are noticed the same should be repaired / replaced free of cost.
10. **TO RECOVER LIQUIDATED DAMAGES:**
In the event of unsatisfactory, delayed or non supply of materials, the supplier shall be liable to pay by way of liquidated damages at the rate of 1% of the total contract prices per week or part there of subject to a maximum 10% of the contract price without prejudice to the right of the purchaser to take any other action. The amount shall also be recoverable from any other contract on account of the supplier.
11. **RISK PURCHASE:**
The supply of all items must be completed satisfactorily and within the specified period in the order falling which the Purchaser reserves the right to purchase stores from other sources at the supplier's cost and risk.
12. **PACKING:**
The equipment should be securely packed and properly marked to avoid loss or damage in Transit by Rail / Road.
13. **VALIDITY:**
THE OFFER SHOULD BE VALID FOR A MINIMUM PERIOD OF 180 DAYS FROM THE OPENING OF QUOTATION.
14. **RIGHT OF ACCEPTANCE:**
THE PURCHASER DOES NOT BIND HIMSELF TO ACCEPT THE LOWEST OR ANY OF OTHER TENDER AND RESERVES THE RIGHT OF ACCEPTANCE THE WHOLE OR ANY PART OF THE TENDER OR PORTION OF THE QUANTITY OFFERED.
15. **ARBITRATION:**
Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this Contract or the breach thereof shall be settled by Arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties.
16. **JURISDICTION:**
All questions, disputes or differences arising under, out of or in connection with the contract shall be subject to the exclusive jurisdiction of court within local limits of Hyderabad, Andhra Pradesh, India.

17. **ADDENDA TO TENDER DOCUMENTS:**
The Purchaser reserves the rights to issue addenda to the tender documents to clarify, modify, supplement or delete any of the condition, clauses or items stated in the tender documents issued with this Invitation to Tender. Each addendum issued will be distributed to each tenderer or his authorized representative and the addendum so issued shall form a part of the original tender documents to be reviewed as required.
18. **QUERIES / CLARIFICATIONS:**
Queries / clarifications, either technical, financial or commercial, if any, that may arise, should be referred by the tenderer by fax / letter direct to the ADDL. GENL. MANAGER (PURCHASE), Mishra Dhatu Nigam Limited, PO Kanchanbagh, Hyderabad – 500 058 (Fax No. 040-24340764).
19. **NO CLAIM OR COMPENSATION FOR SUBMISSION OF TENDER:**
The tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to or incurred by them, through or in connection with their submission of tenders even though the Purchaser may elect to withdraw the invitation to tender.
20. **LOWEST TENDER NOT NECESSARY TO BE ACCEPTED:**
The Tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to / or incurred by them, through or in connection with their submission of tenders, even though the Purchaser may elect to withdraw the Invitation to Tender.
21. **BANKRUPTCY ETC.:**
If the Contractor shall become bankrupt or insolvent or cause or suffer any receiver to be appointed of his business or any asset thereof or compound with his creditors, or being a corporation commence to be wound up, or carry on its business under a Receiver for the benefits of its creditors or any of them, the Purchaser shall be at liberty:

To terminate the contract forthwith upon coming to know the happening of any such event as aforesaid by notice in writing to the Contractor or to the receiver / liquidator
OR
To give such receiver, liquidator or other person the option of carrying out the contract subject to his providing guarantee up to an amount to be agreed for the due and faithful performance of the Contract.
22. **SUBMISSION OF TENDER:**
Tenders shall be sent by registered post or put in personally in the sealed Tender Box located at the Corporate Security Gate of Midhani. The Tender cover shall superscribed our Tender Number and due date.

The tenders received after the stipulated time (10:30 hrs IST) and due date, due to any reason whatsoever will not be considered.

23. MODE OF SUBMISSION OF TENDER:

Tenders shall be submitted as per the procedure indicated at Annexure - III.

Tenderers are required to submit their tenders in two parts, namely:

1. **Part I:** Techno-commercial Bid (un-priced).
2. **Part II:** Price Bid.

Techno-commercial (Un-priced) Bid: (Envelope No.1), detailed technical specifications should be furnished along with catalogue / literature of original manufacturer and submitted separately superscribed as "Techno-commercial Bid" (un-priced) including Commercial conditions indicating the tender No. & due date of opening duly sealed and kept in Envelope No.2.

Price Bid: (Envelope No.2), the priced offer / quotation should be submitted separately superscribed as "Price Bid" (envelope no.2) indicating the Tender No. & Due Date of opening duly sealed and kept in Envelope No.2.

All the two Envelopes should be kept in envelope No. 3 and which also should be superscribed with the tender No. & date of opening. The above is further explained in greater detail in Annexure - III.

Unsealed tender, unsigned tenders, tenders who are incomplete or otherwise considered defective are liable to be rejected. Any bid not confirming to above shall be summarily rejected.

24. TENDER OPENING:A) TECHNO-COMMERCIAL BIDS (UN-PRICED) :

Techno-commercial Bids (un-priced) only shall be opened on the due date indicated in the enquiry in the presence of Tenderers or their authorized representatives who choose to be present at the time of tender opening.

B) PRICE BIDS:

PRICE Bids of technically acceptable tenders' shall be opened after the Techno-commercial bids evaluation and after receipt of clarifications, if any, in the presence of tenderers or their authorized representatives who choose to be present at the time and date which will be informed to the tenderers concerned in advance.

The comparative assessment of offers received would be made on equal footing taking into account the financial implications for the deviations in terms and conditions. Conditional discounts offered by the tenderers for coverage within a shorter period for early inspection / payment etc., shall not be considered at the time of evaluation of tenders.

25. DEFINITIONS:PURCHASER:

The term "Purchaser" as used herein shall mean Mishra Dhatu Nigam Limited, incorporated under the Companies Act, 1956, and having its registered office at P.O. Kanchanbagh, Hyderabad - 500 058, India, and shall include its successors and assigns.

TENDERER:

The term "Tenderer" shall mean the person, firm or corporation submitting a tender against the Invitation to tender and shall include his/its heirs, executors, administrators, legal representatives, successors and assigns.

-.*-*-.

PROCEDURE TO BE FOLLOWED FOR SUBMISSION OF TENDER.

Envelope No.1

“TECHNO-COMMERCIAL BID”

ENQUIRY NO, dated
DUE DATE:

To
MISHRA DHATU NIGAM LIMITED,
PO: KANCHANBAGH, HYDERABAD - 500 058.

NAME OF THE TENDERER:

Envelope No.2

“PRICE BID”

ENQUIRY NO. dated

To
MISHRA DHATU NIGAM LIMITED,
PO: KANCHANBAGH, HYDERABAD - 500 058.

NAME OF THE TENDERER:

PLEASE PUT THE ABOVE TWO ENVELOPS IN A BIGGER SIZE ENVELOPE AND INDICATE THE DETAILS AS SHOWN BELOW:

Envelope No.3

ENQUIRY NO. dated
DUE DATE:

CONTENTS: 1. TECHNO-COMMERCIAL BID.
2. PRICE BID.

To
MISHRA DHATU NIGAM LIMITED,
PO: KANCHANBAGH, HYDERABAD - 500 058.

NAME OF THE TENDERER:

MISHRA DHATU NIGAM LIMITED P.O. Kanchanbagh, HYDERABAD-500058 PHONE: FAX:	INVITATION TO TENDER (JOB WORKS) No. MDN/ PUR / Date: DUE DATE: TIME: 10:30 hrs OPENING DATE: TIME: 10:35 hrs
	<u>Your Offer should contain the following information.</u> 1. Unit Rate both in figures & words and Price Basis 2. Validity Period of the offer 3. Quantity / Trade discount, if any 4. Delivery Schedules 5. Mode of Dispatch 6. Terms of Payment 7. Taxes & excise/Octroi applicable with rate percentage

Dear Sirs,

You are requested to send your offer in duplicate for the following items, as per the Terms & Conditions mentioned herein, in sealed envelop superscribed with Invitation to Tender No. & Due Date.

Sl. No.	MATERIAL	Estimated Requirement		Delivery Required
	DESCRIPTION & SPECIFICATION.	Qty	Units	
1	NOTE: - 1) THE TERMS AND CONDITIONS AS PER ANNEXURE-II.			

Thanking you.

Yours faithfully,
For MISHRA DHATU NIGAM LTD

MISHRA DHATU NIGAM LTD., HYDERABAD.**TERMS & CONDITIONS FOR JOBWORKS**

1. **EXCISE DUTY :**
 - a. The input materials will be issued under current Central Excise Rule. No Excise Duty is therefore be applicable. The duplicate copy of Excise Challan is to be filled-in Properly and returned along with finished material.
 - b. As per the latest guidelines of Central Excise Rules, the material issued to the Job-Worker is to be returned to the Parent factory within 180 days from the date of issue, failing which Excise Duty will have to be paid by the Job Worker (This is usually 16% of the cost of the material)
 - c. The above shall be governed by the Central Excise Tariff & Procedure as applicable.
2. **SALES TAX :**
Sales tax is not applicable since it is Job Work.
3. **PROCESS LOSS :**
The Scrap generated during process shall be kept separately and to be returned to MIDHANI along with finished material each challan-wise for each of material accounting and payment. Tenderer shall indicate the percentage of process loss in his offer. The process loss shall be expressed in percentage of input material / generated scrap. In case, if it exceeds allowed percentage, the cost of scrap will be recovered from the bill.
The Tenderer, who quotes lesser percentage of process loss, will be encouraged for future business.
4. **REJECTIONS :**
The processing has to be carried out as per Scope of Work. In case any material is rejected due to faulty workmanship, the cost of the raw material will be recovered from the tenderer. The cost of the material will be informed to the Job worker while issuing the materials after placing order.
5. **BANK GUARANTEE / INDEMNITY BOND :**
The successful tenderer shall submit Bank guarantee / Indemnity Bond covering the value of free issue material as directed by the Purchaser. The value of the material will be furnished at the time of placement of order.
6. **INSURANCE :**
The successful tenderer shall take an Insurance Policy, covering all risks, for the value of material issued by Midhani and lying at his works.
7. **PRICES :**
Tenderers shall submit their quotation in terms of Rs. / Kg. The prices shall be firm during the tenure of the Contract.
8. **TRANSPORT :**
Tenderers are advised to include to and fro transport charges in their offer, as the successful tenderer shall collect the material from Purchaser's works and deliver the finished product back at Purchaser's works. Tenderer, who quote the lowest prices, inclusive of transport charges will be preferred.
9. **DELIVERY :**
The Tenderer shall indicate the earliest possible delivery period. i.e., minimum time required to machine each batch of the material and to despatch the material from the date of receipt of material.
10. Tenderers shall submit their quotes in clear terms without any vague expressions.
11. **SSI UNITS:**
SSI Units shall furnish details of its Registration No., turnover and its Registration with NSIC under Single Point Registration Scheme, along with Tender, for purposes of claiming concessions as per Government guidelines. Necessary documentary evidence shall be furnished by the Tenderer along with the tender.
12. Tenderers are requested to submit their offers according to Purchaser's Terms & Conditions, contained in this Annexure.
13. The Purchaser is not bound to accept the lowest or any tender or to assign reasons for its non-acceptance. The Purchaser also reserves the right to accept the tender either in whole or in part.
14. **REPEAT ORDER :**
Within a period of six months from the date of completion of the order, the Purchaser further reserves the right to place repeat order on the successful tenderer for an additional quantity upto 100% of the original ordered quantity.
15. **COUNTER TERMS & CONDITIONS :**
Where counter terms & conditions have been offered by the Tenderer, the Purchaser shall not be governed by these unless specific acceptance has been given in writing in the order, by the Purchaser.
16. **INSPECTION :**
The Purchaser reserves the right to get the finished / semi-finished goods inspected during the course of progress of work at the Contractor's works.

P.T.O.

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17. **VALIDITY :**
The offer should be valid for a minimum period of 90 days from the date of opening of the tender.
18. **ARBITRATION :**
Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this Contract or the breach thereof shall be settled by Arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties.
19. **JURISDICTION :**
All questions, disputes or differences arising under, out of or in connection with the contract shall be subject to the exclusive jurisdiction of court within local limits of Hyderabad, Andhra Pradesh.
20. Tenders not conforming to Purchaser's terms & conditions shall be summarily rejected.
21. **GENERAL DIRECTION OF THE WORK :**
The contractor shall obtain instructions for carrying out the work pertaining to his Contract from the Purchaser or its authorized representative.
The Contractor shall take care of the progress of the work through a qualified representative. Any instructions given to such representative shall be considered as having been issued directly to the Contractor.
22. **RESPONSIBILITY FOR PERFORMANCE OF CONTRACT :**
The successful tenderer is responsible for the due performance of the contract in all respects as per the Scope of work.
23. **SUB LETTING OR SUB-CONTRACTING OF CONTRACT :**
The Successful tenderer shall not sublet, transfer or assign the contract or any part thereof without the written permission of the Purchaser.
24. **LIQUIDATED DAMAGES FOR DELAY IN EXECUTION OF CONTRACT:**
If the Contractor shall fail to complete the assigned work within the time prescribed in the Contract thereof, or extended time thereof, the Contractor shall be liable to pay the Purchaser as liquidated damages for such default, but not as a penalty, a sum calculated at the rate of .1% (One percent) of the Contract Price per week of delay, subject to a maximum Of 10% (Ten percent) of the Contract Price. The Purchaser may, without prejudice to any other method of recovery, deduct the amount of such damages from any money in his due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligations to complete the work or from any other of his obligations and liabilities under the Contract.
25. **RISK PURCHASE:**
If the Contractor shall fail to complete the assigned work within the time prescribed in the tender / contract thereof, the Purchaser reserves the right to get the job done through other sources at the Contractor's cost & risk.
26. **ADDENDA TO TENDER DOCUMENTS :**
The Purchaser reserves the right to issue addenda to the tender documents to clarify, modify, supplement or delete any of the condition, clause or items stated in the tender documents issued with this invitation to Tender. Each addendum issued will be distributed to each tenderer or his authorized representative and the addendum so issued shall form a part of the original tender documents to be reviewed as required.
27. **NO CLAIM OR COMPENSATION FOR SUBMISSION OF TENDER:**
The tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to or incurred by them, through or in connection with their submission of tenders even though the Purchaser may elect to withdraw the invitation to tender.
28. **PAYMENT TERMS :**
Payment of all the bills will be made within a period of 30 days from the date of receipt and acceptance of the materials at site.
29. **TENDER OPENING :**
The Tender will be opened in the presence of tenderers or their authorized representatives, who choose to be present. The representative should produce an authorization letter from the tenderer for attending the Tender opening..
30. **DEFINITIONS :**
PURCHASER :
The term "Purchaser" as used herein shall mean "Mishra Dhatu Nigam Limited" incorporated under the companies Act, 1956, and having its registered office at P.O. Kancharbagh, Hyderabad - 500 058. Andhra Pradesh, India, and shall include its successors and assigns.
TENDERER :
The term "Tenderer" shall mean the person, firm or corporation submitting a tender against the invitation to Tender and shall include his / its heirs, executors, administrators, legal representatives, successors and assigns.
CONTRACTOR :
The term "Contractor" shall mean the Tenderer whose tender has been accepted and shall include his / its heirs, executors, administrators, legal representatives, successors and assigns approved by the Purchaser.

PUR/REC /006

Mishra Dhatu Nigam Limited

P.O. Kanchanbagh, Hyderabad
PURCHASE DEPARTMENT

TENDER OPENING FORM

Due Date and Time _____

Date & Time of Opening _____

Sub :

Ref : Invitation to tender No. _____ Date _____

Sl. No.	Name & Address of the Tenderer	Whether recd. in sealed/ closed/open condition	No. of Copies received	REMARKS

Assistant

MPR/CPAR No.		MISHRA DHATU NIGAM LIMITED				Mode of Tender :	
Date: at Page:						Delivery Required:	
Indentor:						No. Tenders Received:	
Enquiry No.						1. In time:	
Date: at Page:						2. Delayed:	
COMPARATIVE STATEMENT							
Sl. No	Description of Items as per tender	Qty	Unit	Name of the Tenderer			
				M/s		M/s	
				Unit Price		Unit Price	
Delivery Time							
	Discount						
	Excise Duty / Service Tax						
	Sales Tax						
Terms of Delivery							
Payment Terms							
Packing & Forwarding Charges							
Freight Charges							
Inspection							
Any Other Terms							
Validity of tender							
Remarks							
Total Basic Price							
Total Value with Taxes (Including Freight)							
				Scrutinised By Finance			
Prepared By			Checked By		(Applicable in Cases requiring Finance Concurrence)		

CONSTITUTION OF PRICE NEGOTIATING COMMITTEE

Sl. No	Mode of tender			Composition of PNC	Financial concurrence	Proposal approving authority
	Open Tender	Limited Tender	Single & Proprietary Tender			
I.	FOR REVENUE ITEMS (RAW MATERIALS, STORES / SPARES / COMPONENTS / SUB-CONTRACT / OFF-LOADING)					
1	Above Rs.200 Lakhs	Above Rs.100 Lakhs	Above Rs.30 Lakhs	Chairman to be decided by CMD. Members *:- GM / AGM / DGM (F & A), GM / AGM / DGM (Purchase) , GM / AGM / DGM (QCL), Indentor	D (F)	CMD
2	Upto Rs.200 Lakhs above Rs.30 Lakhs	Upto Rs.100 Lakhs above Rs.20 Lakhs	Upto Rs.30 Lakhs above Rs.10 Lakhs	Chairman: HOD (Purchase). Members as above *	GM (F & A)	Functional Director
3	Upto Rs.30 Lakhs	Upto Rs.20 Lakhs above Rs.10 Lakhs	Upto Rs.10 Lakhs above Rs.5 Lakhs	Chairman, DGM (Purchase). Members * DGM / Sr. Manager (F & A), Sr. Manager / Manager (Purchase), Sr. Manager / Manager (QC), Indentor	DGM (F & A)	GM / AGM (Purchase)
4	-	Upto Rs.10 Lakhs	Upto Rs.5 Lakhs	Chairman – Sr. Manager (Purchase). Members * Sr. Manager / Manager / Dy. Manager (F & A), Manager / Dy. Manager (Purchase), Manager / Dy. Manager (QC), Indentor	Sr. Manager / Manager (F & A)	DGM / Sr. Manager (Purchase)

- In case of Sub-contract / off-loading contract representative from Planning department will be associated during PNC at suitable level.

Sl. No	Mode of tender			Composition of PNC	Financial concurrence	Proposal approving authority
	Open Tender	Limited Tender	Single & Proprietary Tender			
II. FOR CAPITAL ITEMS						
1	Above Rs.100 Lakhs	Above Rs.50 Lakhs	Above Rs.25 Lakhs	Chairman to be decided by CMD. Members *:- GM / AGM / DGM (F & A), GM / AGM / DGM (Purchase) , GM / AGM / DGM (QCL), Indentor	D (F)	CMD
2	Upto Rs.100 Lakhs above Rs.25 Lakhs	Upto Rs.50 Lakhs above Rs.15 Lakhs	Upto Rs.25 Lakhs above Rs.10 Lakhs	Chairman – HOD (Purchase). Members as above *	GM (F & A)	Functional Directors
3	Upto Rs.25 Lakhs	Upto Rs.15 Lakhs above Rs.1 Lakhs	Upto Rs.10 Lakhs above Rs.0.50 Lakhs	Chairman, DGM (Purchase) Members * DGM / Sr. Manager (F & A), Sr. Manager / Manager (Purchase), Sr. Manager / Manager (QC), Indentor	DGM (F & A)	GM / AGM (Purchase)
4	-	Upto Rs.1 Lakhs	Upto Rs.0.50 Lakhs	Chairman – Sr. Manager (Purchase), Members * Sr. Manager / Manager / Dy. Manager (F & A), Manager / Dy. Manager (Purchase), Manager / Dy. Manager (QC), Indentor	Sr. Manager / Manager (F & A)	DGM / Sr Manager (Purchase)

PUR/REC/11**PURCHASE PROPOSAL**

Ref. No:

Date:

CPAR / MPR No	Date :	Page No:	Indentor :
Description	QTY	Estimated Cost	Purpose for which required

Budget Provision:


Mode of Tender	No. of parties contacted	No. of Tenders received			C.S. at page	Indentor's recommendation at page
		In time	Delayed	Late		
Name of Supplier		Order value (in Rupees)	Draft P.O. at page No		Rank of recommended offer	
Approving Authority					Source of purchase: India/Foreign	
Availability of Foreign Exchange/ Import Licence (If applicable)						
Remarks by Purchase Dept. including reasons for considering lowest / lower offers, if any, in serial order, giving name of tenders, or particulars of negotiations if any conducted, etc.						

 MISHRA DHATU NIGAM LIMITED A Government of India Enterprise PO: Kanchanbagh, Hyderabad - 500058, India Phone: Fax No:		PURCHASE ORDER MDN/PUR/PO/ Date:				
Supplier's Name & Address		Vendor Code	Our Invitation to tender No: Date:			
		K0102	Your Offer No: Date:			
Dear Sirs, Please arrange to supply the following item(s) subject to the terms and conditions given below/enclosed. FLUORSPAR POWDER						
SI.No	MATERIAL		Qty	Unit	Rate Per unit (Rs.)	TOTAL VALUE (Rs.)
	ITEM CODE	ITEM DESCRIPTION				
					Total	
Total Amount(in words) :						

Note To Supplier	:	
Price Basis	:	
Taxes and Duties	:	
Total	:	
Delivery Date	:	
Mode of Despatch	:	
Terms of Payment	:	
Insurance	:	
		Yours faithfully for MISHRA DHATU NIGAM LIMITED

Please submit all Original Shipping Documents along with Invoices/Bills to Stores Department without fail.

Material should Conform to the specification in our order. Please send Delivery Challan in Triplicate. Deliveries at our factory should be only at our stores between 9 a.m. to 2 p.m. on working days. Important : The vendor should indicate the P.O. No. in all their correspondence.

 MISHRA DHATU NIGAM LIMITED A Government of India Enterprise P.O. : Kanchanbagh,Hyderabad-500058, India Phone: +91-40- Fax No: +91-40-		PURCHASE ORDER MDN/PUR/PO/ Date:					
Supplier's Name & Address M/s		Vendor Code	Our Invitation to tender No: Date:				
			Your Offer No. Date:				
Dear Sirs, Please arrange to supply the following item(s) subject to the terms and conditions given below/enclosed. ALUMINIUM MOLYBDENUM MASTER ALLOY.							
Sl. No	MATERIAL ITEM CODE Description & Specification		Qty	Unit	Currency	Rate Per unit	TOTAL VALUE
						Total	
Total Amount(in words) :							

Note To Supplier	:						
Price Basis	:						
Country of Origin	:						
Shipment Date	:						
Terms of Payment	:						
Mode of Despatch	:						
Port of Discharge	:						
Port of Loading	:						
Place of Delivery	:						
						Yours faithfully for MISHRA DHATU NIGAM LIMITED	

Freight Forwarded for Air Consignments under consolidation service whose HAWB is acceptable: NA
The above price shall remain firm during the Currency of the Order and is not subject to any variation whatsoever. Materials should Confirm to the specification in our order.The Vendor should indicate the P.O.No. in all their correspondence.
ENCL:Terms &Conditions

PURCHASE DEPARTMENT

No. MDN/PUR/PO/

Date :

Sub : P. O. No. MDN/PUR/PO/ _____ Dt. _____

Placed on M/s. _____

for supply of _____

... ..

1. The scheduled delivery as per order :
2. Actual date of receipt/despatch :
3. Period of delay in supply :

Please offer your comments whether there are any production losses on account of delay in supplies and Liquidated Damages needs to be levied.

OFFICER

To

Remarks of Indentor : (Please strike out whichever is not applicable).

1. No production losses on account of delayed delivery and no "Liquidated damages" needs to be levied.
2. Production suffered and "Liquidated Damages" need to be levied.

SIGNATURE OF INDENTING OFFICER

In view of the above :-

- i) It is proposed to waive off "Liquidated Damages" @ _____ % amounting to Rs. _____ as there is no production losses.
- ii) It is proposed to levy "Liquidated Damages" of Rs. _____ @ _____ % per week on the value of outstanding supplies.

Put-up for approval.

OFFICER

Dy. General Manager (Purchase)

BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

1. WHEREAS MISHRA DHATU NIGAM LIMITED (A GOVERNMENT OF INDIA ENTERPRISE) PO KANCHANBAGH, HYDERABAD (hereinafter referred as “ The Owner / Company” which expression shall unless repugnant to the subject or context includes its legal representatives, successors and assigns) has issued tender paper vide its Tender No: _____ for supply of _____ (herein after called “the said tender”) to M/s. _____ (herein after called “the said Tenderer(s)”) which expression shall unless repugnant to the subject or context includes their legal representatives, successors and assigns) and as per terms and conditions of the said tender, the tenderer shall submit a Bank Guarantee for Rs./USD _____ towards earnest money in lieu of cash.
2. WE (Bank Name and Address) (herein after called the bank) do hereby undertake to pay the amount due and payable under this Guarantee without any demur merely on a demand from the company stating that in the opinion of the company, which is final and binding, the amount claimed is due because of any withdrawal of the tender or any material alteration to the tender after the opening of the tender by way of any loss or damage caused or would be caused or suffered by the company by reason of any breach by the said tenderer(s) of any of the terms and conditions contained in the said tender or failure to accept the Letter of Intent / Agreement or that the amount covered under this Guarantee is forfeited. Any such demand made on the bank by the owner shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs./USD _____.
3. We undertake to pay to the Company any money so demanded notwithstanding any dispute or disputes raised by the tenderer(s) in any suit or proceeding pending before any office, court or tribunal relating thereto, our liability under this present guarantee being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder. Our liability to pay is not dependant or conditional on the owner proceeding against the tenderer.
4. The guarantee herein contained shall not be determined or affected or suspended by the liquidation or winding up, dissolution or change of constitution or insolvency of the said tenderer(s) but shall in all respect and for all purposes be binding and operative until payment of all money due or liabilities under the said tender are fulfilled.
5. WE (Bank Name and Address) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the finalization of the said tender and that it shall continue to be enforceable till the said tender is finally decided and order placed on the successful tenderer(s) and /or till all the dues of the company under/or by virtue of the said tender have been fully paid and its claims satisfied or discharged or till a duly authorized officer of the company certifies that the terms and conditions of the said tender have been fully and properly carried out by the said

tender(s) or till date: _____ whichever is earlier and accordingly discharges the guarantee.

6. That the Owner/Company will have full liberty without reference to us and without affecting this guarantee to postpone for any time or from time to time, the exercise of any of the power of the owner under the tender.
7. We (Bank Name and Address), lastly undertake not to revoke this guarantee during its currency except with the previous consent of the company in writing. We further undertake to keep this Guarantee renewed from time to time on the request of the Tenderer(s).
8. Notwithstanding anything contained herein before, our liability shall not exceed Rs./USD _____ towards earnest money in lieu of cash and shall remain in force till (date). Unless a demand or claim under this Guarantee is made on us within three months from the date of expiry i.e., _____ we shall be discharged from all the liabilities under this guarantee

Date: _____

(Bank Name and Address)

Signature of duly
Authorized person
On behalf of the Bank
With seal & signature code

FORM OF BANK GUARANTEE IN LIEU OF SECURITY DEPOSIT

1. This deed of guarantee executed onday of by

(Name and Address of the Bank)

the Bank hereinafter called Bank (which term shall mean and include its successors and assigns wherever the context so admits) in favour of M/s. MISHRA DHATU NIGAM LIMITED., a government of India Enterprise incorporated and registered as a company under the Companies Act, 1956, having its registered office at P.O. Kanchanbagh, Hyderabad – 500 058, state of A.P. India, herein after referred to as the “purchaser” (which terms shall mean and include its successors in office and assigns).

2. In consideration of M/s. Mishra Dhatu Nigam Limited (Purchaser) having agreed to exempt hereinafter called the said Contract(s) (which term shall mean and include its successors assigns and legal representatives) from the demand under the terms and conditions of Purchase / Work Order No. dated for(hereinafter called the said agreement) of Earnest Money / Security Deposit/ Defect Liability deposit for the due fulfillment by the said Contractor(s) of the terms and conditions contained in the said agreement on production of a bank guarantee for Rs.....(Rupees..... only), we (name of the bank, address) (hereinafter referred to as “The Bank”) at the request of Contractor(s) do hereby undertake to pay Purchaser an amount not exceeding Rs (in words.....) against any losses or damage caused to or suffered or would be caused to or suffered Purchaser by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the said agreement.
3. We (Bank) do hereby unconditionally and irrevocably agree and undertake to pay to Purchaser the amounts due and payable under this Guarantee without any demur, merely on a demand from Purchaser stating that the amount claimed is due by way of loss or damage caused to or would be caused to on suffered by Purchaser by reason of breach by the said agreement or by reason of the contractor(s) failure to perform the said agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs (in words.....)

4. We undertake to pay Purchaser and money so demanded notwithstanding any dispute or disputes by the contractor(s) / supplier(s) in any suit or proceedings pending before any court of tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this Guarantee shall be valid discharge of our liability for payment thereunder and the contractor(s) shall have not claim against us for making such payment.
5. We (Bank) further agree that the guarantee herein contained shall remain in full force and affect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of Purchase under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharges or till Purchaser certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and accordingly discharges this guarantee. Provided that if Purchaser together with the Contractor seeks an extension of terms of the Guarantee, such extension shall be granted by the Bank and the guarantee shall be in full force till the expiry of such extended period.
6. We (Bank) further agree with Purchaser that Purchaser shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by purchaser against the said Contractor(s) and to forebear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation of extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of Purchaser or any indulgence by Purchaser to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provisions, have effect of so relieving us.
7. It shall not be necessary for Purchaser to proceed against the contractor before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank notwithstanding any security which Purchaser may have obtained or obtains from the contractor.
8. This guarantee shall not be discharged due to the change in the constitution of the Bank or the contractor(s).
9. We (Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of Purchase in writing.

10. Notwithstanding anything contained herein before, our liability is limited to a sum not exceeding Rs (in words.....) unless a claim is made on us in writing on or before (3 months beyond the date of delivery / completion as specified in the contract) we shall be discharged from liability under this guarantee.

In witness whereof these presents are executed at on the date, month and year first herein above written.

FOR AND ON BEHALF OF THE BANK WITHIN NAMED

BANK GUARANTEE TO SECURE THE INITIAL ADVANCE PAYMENT

1. This deed of guarantee executed onday of
by.....
(Name and Address of the Bank)

the Bank hereinafter called Bank (which term shall mean and include its successors and assigns wherever the context so admits) in favour of M/s. MISHRA DHATU NIGAM LIMITED., a government of India Enterprise incorporated and registered as a company under the Companies Act, 1956, having its registered office at P.O. Kanchanbagh, Hyderabad – 500 058, state of A.P. India, herein after referred to as the “purchaser” (which terms shall mean and include its successors in office and assigns).

2. In consideration of M/s. Mishra Dhatu Nigam Limited (Purchaser) agreeing to make an advance payment of Rs (in words)
representing % of the total contract value along with the 14% interest per annum as per the terms and conditions of the Purchase / Works Order No. dated (hereinafter called the Agreement) to hereinafter called the said Contractor(s) (which term shall mean and include its successors assigns and legal representatives) on production of a bank guarantee for Rs(Rupees..... only),
we (name of the bank, address) (Hereinafter referred to as “The Bank”) at the request of Contractor(s) do hereby undertake to pay Purchaser an amount not exceeding Rs (in words) against any losses or damage caused to or suffered or would be caused to or suffered Purchaser by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the said agreement.
3. We (Bank) do hereby unconditionally and irrevocably agree and undertake to pay to Purchaser the amounts due and payable under this Guarantee without any demur, merely on a demand from Purchaser stating that the amount claimed is due by way of loss or damage caused to or would be caused to on suffered by Purchaser by reason of breach by the said agreement or by reason of the contractor(s) failure to perform the said agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs(in words)
4. We undertake to pay Purchaser and money so demanded notwithstanding any dispute or disputes by the contractor(s) / supplier(s) in any suit or proceedings pending before any court of tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this Guarantee shall be valid discharge of our liability for payment thereunder and the contractor(s) shall have not claim against us for making such payment.

5. We (Bank) further agree that the guarantee herein contained shall remain in full force and affect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of Purchase under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharges or till Purchaser certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and accordingly discharges this guarantee. Provided that if Purchaser together with the Contractor seeks an extension of terms of the Guarantee, such extension shall be granted by the Bank and the guarantee shall be in full force till the expiry of such extended period.

6. We (Bank) further agree with Purchaser that Purchaser shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by purchaser against the said Contractor(s) and to forebear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation of extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of Purchaser or any indulgence by Purchaser to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provisions, have effect of so relieving us.

7. It shall not be necessary for Purchaser to proceed against the contractor before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank notwithstanding any security which Purchaser may have obtained or obtains from the contractor.

8. This guarantee shall not be discharged due to the change in the constitution of the Bank or the contractor(s) and it shall not be discharged or suspended by the liquidation or winding up or dissolution or insolvency of the contractor (s).

9. We (Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of Purchase in writing.

10. Not with standing anything contained herein, our liability is limited to a sum not exceeding Rs unless a claim is made on us in writing on or before (3 months beyond the date of delivery / completion as specified in the contract) we shall be discharged from liability under this guarantee.

In witness whereof these presents are executed at,..... on the date, month and year first herein above written.

FOR AND ON BEHALF OF THE BANK WITHIN NAMED

BANK GUARANTEE TO SECURE THE PAYMENT FOR GENERAL ARRANGEMENT DRAWING

1. This deed of guarantee executed onday of
by.....
(Name and Address of the Bank)

the Bank hereinafter called Bank (which term shall mean and include its successors and assigns wherever the context so admits) in favour of M/s. MISHRA DHATU NIGAM LIMITED., a government of India Enterprise incorporated and registered as a company under the Companies Act, 1956, having its registered office at P.O. Kanchanbagh, Hyderabad – 500 058, state of A.P. India, herein after referred to as the “purchaser” (which terms shall mean and include its successors in office and assigns).

2. In consideration of M/s. Mishra Dhatu Nigam Limited (Purchaser) agreeing to make an advance payment (towards submission of general agreement drawing) of Rs (in words) representing % of the total contract value along with the 14% interest per annum as per the terms and conditions of the Purchase / Works Order No. dated (hereinafter called the Agreement) to hereinafter called the said Contractor(s) (which term shall mean and include its successors assigns and legal representatives) on production of a bank guarantee for Rs(Rupees..... only), we (name of the bank, address) (Hereinafter referred to as “The Bank”) at the request of Contractor(s) do hereby undertake to pay Purchaser an amount not exceeding Rs (in words) against any losses or damage caused to or suffered or would be caused to or suffered Purchaser by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the said agreement.

3. We (Bank) do hereby unconditionally and irrevocably agree and undertake to pay to Purchaser the amounts due and payable under this Guarantee without any demur, merely on a demand from Purchaser stating that the amount claimed is due by way of loss or damage caused to or would be caused to on suffered by Purchaser by reason of breach by the said agreement or by reason of the contractor(s) failure to perform the said agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs (in words)

4. We undertake to pay Purchaser and money so demanded notwithstanding any dispute or disputes by the contractor(s) / supplier(s) in any suit or proceedings pending before any court of tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this Guarantee shall be valid discharge of our liability for payment thereunder and the contractor(s) shall have not claim against us for making such payment.

5. We (Bank) further agree that the guarantee herein contained shall remain in full force and affect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of Purchase under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharges or till Purchaser certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and accordingly discharges this guarantee. Provided that if Purchaser together with the Contractor seeks an extension of terms of the Guarantee, such extension shall be granted by the Bank and the guarantee shall be in full force till the expiry of such extended period.

6. We (Bank) further agree with Purchaser that Purchaser shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by purchaser against the said Contractor(s) and to forebear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation of extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of Purchaser or any indulgence by Purchaser to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provisions, have effect of so relieving us.

7. It shall not be necessary for Purchaser to proceed against the contractor before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank notwithstanding any security which Purchaser may have obtained or obtains from the contractor.

8. This guarantee shall not be discharged due to the change in the constitution of the Bank or the contractor(s) and it shall not be discharged or suspended by the liquidation or winding up or dissolution or insolvency of the contractor (s).

9. We (Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of Purchase in writing.

10. Not with standing anything contained herein, our liability is limited to a sum not exceeding Rs unless a claim is made on us in writing on or before (3 months beyond the date of delivery / completion as specified in the contract) we shall be discharged from liability under this guarantee.

In witness whereof these presents are executed at,..... on the date, month and year first herein above written.

FOR AND ON BEHALF OF THE BANK WITHIN NAMED

BANK GUARANTEE TOWARDS RELEASE OF LAST INSTALMENT OF 10% PAYMENT

This Deed of Guarantee executed on..... Day of..... by..... Bank. hereinafter called the "Guarantor" (which term shall mean and include its successors, assigns and legal representatives, where the context so admits) in favour of M/s. MISHRA DHATU NIGAM LIMITED, a Government of India Enterprise incorporated and registered as a Company under the Companies Act, 1956, having its registered office at P.O. Kanchanbagh, Hyderabad - 500 058, State of A.P. INDIA, hereinafter referred to as the "Purchaser", (which term shall mean and include its successors and assigns).

WHEREAS the Contract No / Purchase Order No. MDN/PUR/..... Dated..... has been entered into between the Purchaser and M/s. _____ a company incorporated and registered under the Laws of by which the company is permitted to manufacture and sell certain products, and having its registered office situated at hereinafter referred to as the CONTRACTOR (which term shall mean and include its successors, assigns and legal representatives) for the supply of as fully described in the aforesaid Contract.

AND WHEREAS it has been agreed under the terms and conditions of the aforesaid Contract that the Purchaser shall make balance payment to the Contractor of USD (in words.....) representing% of the total value of Contract on final acceptance of the and on furnishing a Guarantee from a Bank acceptable to the Purchaser by the Contractor towards satisfactory performance of the supplied.

AND WHEREAS the Guarantor has, as per the terms and conditions of the aforesaid contract, agreed to stand guarantee for the amount of ten per cent of the balance payment in favour of the Contractor.

NOW THIS DEED witnesses that, in pursuance of the terms and conditions of the aforesaid Contract and in consideration of the payment of representing.....% of the total value of the Contract agreed to be made to the Contractor by the Purchaser, the Guarantor do hereby agree and undertake to indemnify the Purchaser and keep the purchaser indemnified to the extent of a sum not exceeding the said sum of USD..... (USD) against any damage or loss that may be suffered by the Purchaser by reason of non-fulfillment of or breach any of the terms and conditions of the contract by the contractor, and the guarantor hereby undertaken to pay on demand and without any demur to the purchaser any sum unconditionally and irrevocably not exceeding the sum of USD (USD as may be demanded by the Purchaser's Director (Finance) / General Manager (COMML.) or Representative of the purchaser as the damages or loss that the purchaser may have suffered by reasons of non-fulfillment of any of the terms and conditions of the Contract by the Contractor, and Guarantor hereby covenants with the Purchaser as follows:

1. That the decision of the Director (Finance) & General Manager (Comml.) or Representative of the Purchaser as to whether the said installation under the contract gives satisfactory performance or not and as to the amount of damages suffered by the Purchaser on account of the unsatisfactory performance of the said installation under the contract shall be conclusive, final and binding on the Bank.
2. That the Guarantee herein contained shall remain in full force and effect till the Purchaser certifies in writing that the terms and conditions of the said Contract have been fully and properly carried out by the said Contractor and accordingly discharges the Guarantee. Unless a demand for claim under this Guarantee is made on the Bank in writing on or before, the Bank shall be discharged from all liabilities under this Guarantee thereafter, provided that if the Purchaser, together with the Contractor, seeks an extension of the term of the Guarantee, such extension shall be granted by the Bank and the Guarantee shall be in full force and effect till the expiry of such extended period.
3. That the Purchaser shall have the fullest liberty, without affecting in any way the liability of the Bank under this Guarantee or Indemnity, from time to time to vary any of the terms and conditions of the said contract or to extend its performance by the said Contractor as provided or to postpone, for any time and from time to time, any of the powers exercisable by it against the said Contractor and either to enforce or forbear from enforcing any of the terms and conditions governing the said Contract, and the said Bank shall not be released from its liability under these presents by any exercise by the Purchaser of the liberty with reference to matters aforesaid or by reason of time being given to the said Contractor or any other forbearance, act or omission on the part of the Purchaser or any indulgence by the Purchaser to the said Contractor or of any other matter or thing whatsoever which, under the law relating to sureties, would, but for this provision, have the effect of so releasing the Bank from its liability.
4. It shall not be necessary for the Purchaser to proceed against the Contractor before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank notwithstanding any security which the Purchaser may have obtained or obtain from the Contractor.
5. The Bank lastly undertakes not to revoke this Guarantee during its currency, except with the previous consent of the Purchaser in writing, and agrees that any change in the constitution of the said Contractor or the said Bank shall not discharge the Bank's liability hereunder.

In witness whereof these presents are executed at
the date, month and year first herein above written.

FOR & ON BEHALF OF THE BANK WITHIN NAMED

PRE-CONTRACT INTEGRITY PACT

General

1. Whereas M/s. MISHRA DHATU NIGAM LIMITED a Government of India Enterprise incorporated and registered as a company under the company Act, 1956 having its registered office at P.O. Kanchanbagh, Hyderabad – 500058 state of A.P., India hereinafter referred to as the Buyer and the first part, propose to procure -----
-----, hereinafter referred to as Defence Stores, and M/s-----
-----, (which term shall mean and include its successors assigns and legal representation), herein after referred to as the Bidder and the second party, has offered the stores.
2. Whereas the Bidder is a private company / public company / partnership / registered export agency, constituted in accordance with the relevant law in the matter and the Buyer is a Ministry of the Government of India performing its functions on behalf of the President of India.

Objectives

3. Now, therefore, the Buyer and the Bidder agree to enter into this Pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to: -
 - 3.1 Enabling the Buyer to obtain the desired Defence Stores at a competitive price in conformity with the defined specifications of the Service by avoiding high cost and the distortionary impact of corruption on public procurement, and
 - 3.2 Enabling bidder to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Buyer will commit to prevent corruption, in any form, by their officials by following transparent procedures.

Commitments of the Buyer:

4. The Buyer Commits itself to the following: -
 - 4.1 The Buyer undertakes that no official of the Buyer connected directly or indirectly with the contract, will demand, take a promise for or accept directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization of third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.
 - 4.2 The buyer will, during the pre-contract stage, treat all Bidders alike, and will provide to all Bidders the same information and will not provide any such information to any

particulars Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.

- 4.3 All the officials of the Buyer will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
5. In case of any such preceding misconduct on the part of such officials (s) is reported by the bidder to the Buyer with full and verifiable facts and the same is prima facie found to be correct by the Buyer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Buyer and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Buyer the proceedings under the contract would not be stalled.

Commitments of Bidders:

6. The Bidder commits himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:-
 - 6.1 The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract.
 - 6.2 The Bidder further undertakes that he has not give, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer or otherwise in procuring the contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other contract with the Government for showing or forbearing to show favour or disfavor to any person in relation to the Contract or any other contract with the Government.
 - 6.3 The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
 - 6.4 The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

- 6.5 The Bidder further confirms and declares to the Buyer that the Bidder is the original manufacture / integrator / authorized government sponsored export entity of the defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the Buyer or any of its functionaries, whether officially or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
- 6.6 The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the Buyer or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 6.7 The Bidder shall to use improperly, for purposes of competitor or personal gain, or pass on to others, any information provided by the Buyer as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder also undertakes to exercise due and adequate care lest any such information is divulged.
- 6.8 The Bidder commits to refrain from giving any complaint direct or through any other manner without supporting it with full and verifiable facts.
- 6.9 The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

7. Previous Transgression

- 7.1 The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify bidder's exclusion from the tender process.
- 7.2 If the Bidder makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

8. Earnest Money / Security Deposit (If applicable)

- 8.1 Every bidder, while submitting commercial bid, shall deposit an amount as specified in the RFP as Earnest Money / Security Deposit, with the buyer through any of the following instruments: -
- (i) Bank Draft or a Demand draft in favour of M/s. Mishra Dhatu Nigam Limited, Hyderabad.

- (ii) A confirmed guarantee by an Indian Nationalized Bank, promising payment of the guarantee sum to M/s. Mishra Dhatu Nigam Limited, Hyderabad on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the Buyer shall be treated as conclusive proof for payment.

8.2 The Earnest Money / Security Deposit shall be valid upto a period of Six Months or the complete conclusion of the contractual obligations to complete satisfaction of both the bidder and the buyer, whichever is later. In case there are more than one bidder, the Earnest Money / security deposit shall be refunded by the buyer to those bidder) s) whose bid (s) does/do not qualify for negotiation by the Commercial Negotiation Committee (CNC) as constituted by the Buyer, Immediately after recommendation is made by the CNC on the bid(s) after an evaluation.

8.3 In the case of successful bidder a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of sanctions for violation shall be applicable for forfeiture of performance bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

8.4 The provisions regarding Sanctions for violation in Integrity Pact include forfeiture of performance Bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of Integrity Pact.

8.5 No interest shall be payable by the Buyer to the Bidder(s) on earnest money / Security Deposit for the period of its currency.

9. Company Code of Conduct

9.1 Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

10. Sanctions for Violation:

10.1 Any breach of the aforesaid provisions by the Bidder or any one employed by him or acting on his behalf (whether with or without the knowledge of the Bidder) or the commission of any offence by the Bidder or any one employed by him or acting on his behalf, as defined in chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the Buyer to take all or any one of the following actions, wherever required: -

- (i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue.
- (ii) The earnest Money / Security Deposit / Performance Bond, if furnished by the bidder, shall stand forfeited either fully or partially, as decided by the Buyer and the Buyer shall to be required to assign any reason therefore.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.
- (iv) To recover all sums already paid by the Buyer, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate, while in case of a Bidder from a country other than India with interest thereon at 2% higher than LIBOR. If any outstanding payment is due to the Buyer from the Bidder in connection with any other contract for any other Defence stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
- (v) To en-cash the advance bank guarantee and performance bond / warranty bond, if furnished by the Bidder, in order to recover the payments, already made by the Buyer, along with interest.
- (vi) To cancel all or any other Contracts with the Bidder.
- (vii) To debar the Bidder from entering into any bid from the Government of India for a minimum period of five years, which may be further extended at the discretion of the buyer.
- (viii) To recover all sums paid in violation of this Pact by Bidder(s) to any middleman or agent or broker with a view to securing the contract.
- (ix) If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is closely related to any of the officers of the Buyer, or alternatively, if any close relative of an officer of the Buyer has financial interest / stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time of filing of tender. Any failure to disclose the interest involved shall entitle the Buyer to rescind the contract without payment of any compensation to the Bidder. The term 'close relative' for this purpose would mean spouse whether residing with the Government servant or not, but to include a spouse separated from the Government servant by a decree or order of a competent court, son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer in any way dependent upon the Government servant or of whose custody the Government servant has been deprived of by or under any law, any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependent upon Government servant.

- (x) The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions directly or indirectly, with any employee of the Buyer, and if he does so, the Buyer shall be entitled forthwith to rescind the contract and all other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to the Buyer resulting from such rescission and the Buyer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.
- (xi) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Buyer with Bidder, the same shall not be opened.

10.2 The decision of the Buyer to the effect that a breach of the provisions of this Integrity Pact has been committed by the bidder shall be final and binding on the Bidder, however, the Bidder can approach the monitor(s) appointed for the purposes of this pact.

11. Fall Clause

- 11.1 The Bidder undertakes that he has not supplied/is not supplying the similar systems or subsystems or Defence stores at a price lower than that offered in the present bid in respect of any other Ministry / Department of the Government of India and if it is found at any stage that the similar system or sub-system was supplied by the Bidder to any other Ministry / Department of the Government of India at a lower price, then that very price will be applicable to the present case and the difference / in the cost would be refunded by the Bidder to the Buyer, if the contract has already been concluded.
- 11.2 The Bidder shall strive to accord the most favored customer treatment to the Buyer in respect of all matters pertaining to the present case.

12. Independent Monitors

- 12.1is the Independent External Monitor for Midhani.
- 12.2 As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Chairman & Managing Director of M/s. Mishra Dhatu Nigam Limited, Hyderabad.

13. Examination of Books of Accounts: In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Buyer or its agencies shall be entitled to examine the Books of accounts of the Bidder and the Bidder shall provide necessary information of the relevant financial documents in English and shall extend all possible help for the purpose of such examination.

14. Law and Place of Jurisdiction: This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the Buyer i.e. Hyderabad.

15. Other Legal Actions: The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

16. Validity

16.1 The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both the Buyer and the Bidder, whichever is later.

16.2 Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

17. The parties hereby sign this Integrity Pact on -----.

BIDDER

BUYER

M/s. Mishra Dhatu Nigam Limited,
(A Govt. of India Enterprise)
P.O. Kanchanbagh,
Hyderabad 500 058,
INDIA.

In the presence of

In the presence of

Witness:

Witness:

1.

1.

2.

2.

CHECK POINTS FOR INDENTS (TO BE CHECKED BY PURCHASE DEPARTMENT)

1. Indent No. and date (to ensure entry in central purchase Indent register).
2. Name of the Department.
3. Nature of Indent: Express / Normal.
4. Description of item, quantity & UOM are clear.
5. Mode of Tender.
6. Justification for procurement.
7. Last Purchase Order details (Purchase Order No & Date, Supplier name).
8. Approval of competent authority as per D.O.P. & comments (if any) while approving Indent in hierarchy.
9. All annexures mentioned i.e., specifications/ scope of work, drawings and suggested sources with detailed address are enclosed to Indent.
10. Stores endorsement indicating the stock position, Sub Store stock & Shop floor stock are indicated in the Indent.
11. Delivery schedule.
12. Required number of drawings equal to number suggested sources are enclosed with the Indent.
13. Whether the item can be procured by placing a repeat order.
14. Justification for raising the indents on Single tender basis/ Proprietary tender basis.
15. Proprietary Article Certificate is enclosed for Proprietary tender.
16. Whether 'Checklist for raising MPR/ CPAR' enclosed.

CHECK POINTS FOR PREPARATION OF TENDER ENQUIRY (TO BE CHECKED BY PURCHASE DEPARTMENT)

1. Check the approval of competent authority (comments if any) before issuing of tender.
2. Check whether the Tender to be issued under single bid system or two bid system (upto 10 Lakhs – single bid system & above 10 Lakhs – Two bid system).
3. Ensure that standard formats (terms & conditions) are used for issue of tender enquiry (Imports/ Indigenous/ Off-loading/ GCC).
4. Specification/ Scope of Work and Drawings are enclosed to tender document.
5. Time and date for receipt & opening of tenders are indicated.
6. Time has been allowed to the tenderers to submit their Quotations as per Clause No's. 5.1.1.5 (ii) & 5.1.2.7 of Purchase Policy and Procedures.
7. Description of stores including specification, drawing and delivery schedule are correctly indicated in tender document.
8. Ensure that the tender enquiry is signed for and on behalf of the Purchaser before floating.
9. Warranty/ Guarantee clause, suitable payment terms, acceptance criteria & make are indicated in tender document (where it is necessary).
10. Splitting of Order quantities among the tenderers and samples clause etc are indicated in the tender document.
11. In case of purchase of imported stores mode of shipment i.e., by air or by sea is indicated in the tender.
12. Count the parties to whom we are sending the enquiry and check the count with list of parties enclosed with Indent.
13. Whether Integrity Pact is a part of tender document.

TO BE TYPED ON Rs. 100/- NON JUDICIAL STAMP PAPER

INDEMNITY BOND

This deed of Indemnity Bond made on the day of between M/S. MISHRA DHATU NIGAM LIMITED, A Government Company incorporated and registered under the Companies Act, 1956 with its registered office at Kanchanbagh, Hyderabad – 500058 (AP) (hereinafter called the purchaser) which expression shall include its successors and assigns of the first part.

AND

M/s. having its Registered office at (hereinafter called the supplier) which expression shall include its successors, permitted assigns and legal representatives where the context so admits of the second part.

WHEREAS the purchaser has placed a purchase order No: Dated on the Contractor for as per spec. & scope of work with the purchaser's material and as per the terms and conditions enumerated in the said Purchase Order.

AND WHEREAS in consideration of the letter, the Contractor has agreed to execute the Indemnity Bond for Rs./- (Rupeesonly.) for the safe custody of the material delivered by the Purchaser to the Contractor for as per spec. & scope of work are delivered to the purchaser and as herein after appearing.

NOW THIS deed witness that in pursuance of the said agreement and in the premises the contractor agreed to Indemnify the purchaser for Rs.the Contractor at all times to hold himself liable for all the damages losses due to pilferage, fire or negligence on the part of the contractor's employees or from whatever cause with all the losses, interest charges and expenses incurred by the said purchaser on account of the cost of the said material issued free to the Contractor and it is term of said Letter and this deed of Indemnity that the said material issued free to the Contractor for shall be deemed to be the property of purchaser and it is hereby agreed that the contractor shall not part with or delivery possession of the said material to any other party or person save in compliance with or in the performance of the contractor in respect of the which this Indemnity has been executed, the Supplier having undertaken to deliver the said material in terms of the said Contract. This bond and the thrust hereby created shall remain valid and binding on the contractor till such time as the order has been fully and finally executed and the supplier has delivered the finished goods as per the term of Order.

IN WITNESS WHERE OF M/S_ have caused their company's seal to be affixed here into the day and year for above written.

SIGNATURE OF THE FIRM

In the presence of:

- 1.
- 2.

CHECKLIST TO BE ENCLOSED ALONGWITH MPR/ CPAR BY INDENTING DEPARTMENT

Please put tick mark in appropriate boxes which are relevant to Indent.

1. Last Purchase Order details i.e., P.O. No, P.O. date & Supplier name.
2. Stock position for MPR with respect to:
 - a) Central Stores
 - b) Sub Stores
 - c) Shop floor
 - d) Pipe – line quantities (including both pending Purchase Order details and pending Indents in process)
3. Justification for Procurement.
4. Specification (if any).
5. Drawings (if any).
6. Delivery Schedule/ Lead time.
7. Proprietary Article Certificate (if any).
8. Acceptance Criteria.
9. Pre-Dispatch Inspection clause (if any).
10. Warranty/ Guarantee clauses (if any).
11. Sources with addresses and contact details.
12. Name of the last supplier in list of sources (if not, with justification)
13. Nature of Indent: Express / Normal

REQUEST FOR PROPOSAL

PART I : GENERAL INSTRUCTIONS TO TENDERERS

PART II : TECHNICAL SPECIFICATIONS

PART III : GENERAL CONDITIONS OF CONTRACT

PART IV : SPECIAL CONDITIONS OF CONTRACT

PART V : EVALUATION CRITERIA

PART I

GENERAL INSTRUCTIONS TO TENDERER

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1.0 LIST OF TENDER DOCUMENTS

1.1 We have pleasure in enclosing the following documents for the above work and would invite you to submit your best offer. The following documents shall constitute the tender.

1.1.1 Instruction to Tenderers

1.1.2 Technical Specifications

1.1.3 General Conditions of Contract for supply of Plant, Machinery and Equipment, supervisory service for Erection & commissioning and complete Erection and commissioning, and performance guarantee.

1.1.4 General information on Site, Integrity Pact, Formats of bank guarantee for Security deposit, Advance, Performance guarantee, Draft Letter of Credit Format and Draft Contract agreement, Price bid format.

1.1.5 Special Conditions of Contract, if any.

2.0 TENDERER TO INFORM HIMSELF FULLY

2.1 The tenderer shall study carefully the enclosed tender documents and the documents referred to therein before submitting his offer. The tenderer shall fully satisfy himself of the suitability of the plant, machinery and equipment and layout as indicated in the tender documents, conditions of working at and around the construction Site and take full responsibility for the safe and efficient operation and guarantee of the quality and specified output of the plant, machinery and equipment offered. The offer should be for plant, machinery and equipment and for the services according to the Technical Specifications and in accordance with the terms and conditions of the General Conditions of Contract.

2.2 The tenderer shall inspect the Site and shall satisfy himself of the Site conditions and shall collect any other information which he may require before submitting the tender. Claims and objections due to ignorance of Site condition shall not be considered after submission of the tender.

3.0 SCOPE OF WORK

3.1 The Work is outlined in the tender documents listed in Clause 1.0 above which are enclosed with this tender and all of which shall be used together to define the Work. The Work shall be in conformity with this tender and all other documents, such as specifications, drawings, standards, commercial and legal terms and conditions, which make up the tender documents and those referred to therein.

3.2 The tenderer shall include in his tender, for the provision of materials, equipment and services required for the effective implementation of the Project specified in the tender documents, including complete mechanical, electrical with ventilation system, refractories, measuring and control instruments, fabricated steel work, platforms, all necessary piping, valves and fittings, all cables and all foundation bolts, anchoring parts, etc. In addition the tenderer shall offer separately

for the supply of any additional equipment and material which are not specially mentioned in the tender, but are required to complete the plant, machinery and equipment offered in every respect and for safe and efficient operation and guaranteed performance. It shall be the responsibility of the successful tenderer to furnish the materials, plant, machinery and equipment and provide the services specified accordingly, unless specifically stated as being furnished by others.

- 3.3 The materials, plant, machinery and equipment and services to be provided by the successful tenderer shall include, but not be limited to, the following:
- 3.3.1 Submission of all drawings, documents and data to be furnished as per the Contract, along with complete list of drawings and a time schedule for submitting these in accordance with Clause 17 of the General Conditions of Contract.
 - 3.3.2 Submission of general arrangement drawings showing to scale the size and location of major equipment and components, including electrics, control cabinets etc. giving over-all dimensions, clearances, controlling dimensions as well as necessary elevation, sections, and plans.
 - 3.3.3 Submission of foundation outline drawings, anchor Bolt location plans, loading diagrams and foundation Bolt details for all foundations and concrete structures, duly certified by the Contractor.
 - 3.3.4 Submission of mechanical, electrical, piping, instrumentation, refractory, assembly, installation drawings, instruction and all other drawings and documents as specified.
 - 3.3.5 Procurement of materials, manufacture/fabrication and supply of plant, machinery and equipment for all items as specified.
 - 3.3.6 Supply of large size foundation Bolts, Bolts of special design and those made of alloy / special steels and special embedment that may be required for the plant, machinery and equipment.
 - 3.3.7 Submission of itemized list of spare parts for two (2) years normal working of the plant, machinery and equipment operating instructions and maintenance manuals. Spare parts not manufactured directly by the tenderer shall be identified and description/catalogues given in sufficient detail to enable the Purchaser to procure these directly from the manufacturers, if required.
 - 3.3.8 Carrying out inspection and tests during and after manufacture (including making arrangements for inspection by the Purchaser or its authorized representative) and on completion, packing, marking and dispatching the equipment FOB and supply and delivery of indigenous items FOR Site of the Purchaser including unloading thereof.
 - 3.3.9 Supply of sufficient quantity of commissioning spares necessary for the commissioning of the plant, machinery and equipment offered up to the date of its provisional acceptance by the Purchaser. The commissioning spares shall be included with the plant, machinery

and equipment and must be at Site with the plant, machinery and equipment. Supply of spare parts for two years normal working of the plant after PAC.

- 3.3.10 Supply of one set of special tools for repair and maintenance of plant, machinery and equipment. A list of these tools proposed to be supplied shall be given in the offer.
- 3.4 For the plant, machinery and equipment offered, electric power and utility piping connections shall be suitably terminated at switches or valves, as the case may be, switch boxes and termination valves (with companion flanges, where relevant), shall be located at easily accessible positions. The tenderer shall minimize the number of connections to be provided by the Purchaser for electric power and utilities. The particulars of power and utilities that will be made available by the Purchaser are indicated in the specification and the tenderer shall include any equipment required to transform these to suit the requirements of the equipment offered. The offer shall include all piping with valves and fittings and wiring, for interconnecting parts / components of the different units/systems of the tendered plant, machinery and equipment.
- 3.5 Where refractory and special lining work is involved, e.g. furnace etc. in addition to one set of refractory lining materials, the offer shall include ten percent (10%) extra quantity for all refractory/materials from Indian sources and twenty percent (20%) extra quantity for all imported refractories/materials. For such refractory/lining work the tenderer shall furnish itemized lists of such refractory/lining materials for two (2) years normal working of the plant, machinery and equipment. The tenderer shall also properly identify these with the specifications, sizes and shapes in sufficient detail to enable the Purchaser to procure these directly from the manufacturers, if required.
- 3.6 Supervision of Erection of Plant and equipment and Putting into commission
- 3.6.1 The Purchaser, at his option, may ask the successful tenderer to provide services for supervision of erection, start-up and putting into commission, including performance tests of all plant, machinery and equipment supplied by the successful tenderer, as well as those that may be procured from/fabricated by others based on the successful tenderer's drawings, specifications and bills of quantities. The scope of work may, inter alia, include final painting/finishing, however, where such services are required, the same is indicated in the enclosed specifications.
- 3.6.2 In such cases, the successful tenderer shall provide resident supervisory personnel for the above services in accordance with the relevant part of the General Conditions of Contract. The tenderer shall indicate in his offer the number and category of supervisory personnel and other erection / operation specialists he proposes to depute for the Work as well as the estimated duration of their stay at Site.
- 3.6.3 The tenderer shall submit with the tender a detailed category wise list of personnel to be arranged by the Purchaser for the Erection and Installation work, start-up, Commissioning and performance tests, based on Site work six days a week and eight hours a day. The tenderer shall in his tender also furnish the complete list of specialized installation tools, tackles, instruments and appliances that, in his opinion, will be required

in connection with the installation of the Plant, Machinery and Equipment. All customs related formalities including costs, regarding declaration of instruments, tools, tackles and other appliances for re-export upon successful completion of the Work shall be the responsibility of the successful tenderer.

- 3.6.4 The successful tenderer shall satisfy himself before giving clearance for the foundation for erection purpose that the civil engineering work has been carried-out in accordance with the drawings and specifications furnished by the Purchaser or Purchaser's consulting Engineer, based on data furnished by the successful tenderer.
- 3.7 Complete erection of Plant, Machinery and Equipment and putting into Commission, including but not limited to the following:
- 3.7.1 The successful tenderer shall provide services for complete Installation, start-up and putting into Commission, including performance tests of all Plant, Machinery and Equipment supplied by the successful tenderer, as well as those that may be procured from/fabricated by others based on the successful tenderer's drawings, specifications and bills of quantities. The successful tenderer shall provide the above services in accordance with the terms and conditions of the Contract.
- 3.7.2 In such cases, the tenderer shall provide the above services in accordance with the relevant part of the General Conditions of Contract, and shall indicate in his offer the number and category of supervisory personnel and other erection operations specialists he proposes to depute for the work as well as the estimated duration of their stay at site.
- 3.7.3 The successful tenderer shall inspect and satisfy himself before commencement of installation that the civil engineering work has been carried out in accordance with the drawings and specifications approved by the Purchaser or Purchaser's consulting Engineer, based on data furnished by the successful tenderer.
- 3.7.4 The successful tenderer shall facilitate the Purchaser's personnel to get fully conversant with the working of the plant, machinery and equipment during installation, commissioning and testing.
- 3.7.5 The successful tenderer shall be responsible for providing the necessary installation tools, tackles, instruments and appliances required for the installation work. He shall also be required to provide, without any extra cost, additional tools, tackles, equipment etc., if considered necessary by the Purchaser after mutual agreement with the tenderer for efficient working and the completion of installation in time. All charges in connection with these, such as transportation from the successful tenderer's work to Site and back on the completion of the installation, operation etc., shall be to the account of the successful tenderer.
- 3.7.6 The successful tenderer shall be responsible for taking over consignments containing equipment and materials for installation at the Purchaser's stores and/or stocking place and all subsequent handling and transport.

- 3.7.7 On taking over materials for installation, the successful tenderer shall be responsible for their safe storage and custody till they are handed over to the Purchaser. Any damage, breakage and loss during this period will be to the account of the successful tenderer and he should make the necessary arrangements for proper replacement/repair in time. Save and except otherwise elsewhere provided, on receipt of materials at Site, the Purchaser shall be responsible for safe storage and custody of the materials till they are handed over to the successful tenderer for Installation.

4.0 SPECIAL CONDITIONS

- 4.1 Maximum use shall be made of Indian materials and services to the extent possible for which payments will be made in Indian rupees.
- 4.2 The tenderer shall, however, take complete responsibility for co-ordination of the supplies and adhering to the delivery and other schedules and give performance guarantee for the complete Plant, Machinery and Equipment, including the imported and indigenous portions thereof.
- 4.3 For procurement from indigenous sources, no foreign exchange or import licenses for importing equipment, components, spares, raw materials or other services will be arranged for or provided by Purchaser.
- 4.4 It is the intention of the Purchaser to obtain, to the maximum extent possible equipment and material from indigenous sources. These include various electrical equipment and controls, including mill drives and controls, as well as other equipment, components and materials such as cables, valves, pipes, refractories, insulation materials, fabricated components etc. available from indigenous sources, especially from the Public Sectors Units.
- 4.5 The tenderer shall clearly indicate for the major items offered from indigenous sources together with the name of the agency against the respective items.
- 4.6 The tenderer should preferably have a resident representative in India. The address of such representative in India should be indicated in the tender.

5.0 INFORMATION TO BE SUBMITTED WITH TENDER

In addition to the information called for in the different sections of the tender documents, tenderer shall furnish the following information with the tender without which the tender is liable to be rejected:

- 5.1 Complete description and working of the plant, machinery and equipment, supported by such drawings and catalogues as are required to enable the Purchaser to study the suitability of the Plant, Machinery and Equipment offered.
- 5.2 A list of major components, systems and sub-systems of plant, machinery and equipment tendered, indicating the names of potential suppliers and/or sub-contractors. The tenderer shall clearly indicate the items offered from abroad and from indigenous sources, together with the name of the agency against the respective items.

- 5.3 General arrangement drawings, showing, major equipment, giving overall dimensions, clearances, controlling load dimensions, weights, etc. as well as necessary elevations, sections and plans for studying the suitability of the offered items. Along with these arrangement drawings, preliminary foundation outline drawings, with load data and bold locations are to be furnished, wherever applicable.
- 5.4 Requirements of power, water and other utilities for normal operation of the offered plant, machinery and equipment for the purpose of designing the auxiliary and service systems. These shall be binding on the successful tenderer.
- 5.5 Grade and quantities of flushing oil, lubricating oils and other consumables required during the start-up, commissioning, initial filling and yearly requirements for normal operations. The equivalent brands and specifications for all consumables shall be furnished.
- 5.6 Details of consumption, output and performance guarantee of the plant, machinery and equipment.
- 5.7 Estimated cost of operation of the plant and equipment.
- 5.8 Itemized weights for major items of the complete plant, machinery and equipment.
- 5.9 List of tests and the procedures for conducting the tests proposed at the tenderer's factory before dispatch and at Site during commissioning.
- 5.10 Recommended operation and maintenance personnel, semiskilled and skilled, for the efficient operation and maintenance of the plant, machinery and equipment offered.
- 5.11 Questionnaire, if any, included in the tender documents duly filled in. Tenders with incompletely filled in questionnaire are liable to be rejected.
- 5.12 Each exception to the specifications or other parts of the documents shall be listed separately by the tenderer. If exceptions are not clearly listed as such, they will not be considered by the Purchaser.

6.0 TRAINING OF PERSONNEL

- 6.1 The successful tenderer shall arrange for the training of a reasonable number of the Purchaser's technical personnel in shops manufacturing the equipment and in plants where equipment similar to those covered in the tender documents are in operation. The number of such personnel and the period of training will be mutually agreed upon. The travelling and living expenses of the trainees will be borne by the Purchaser.

7.0 TIME SCHEDULE FOR DELIVERY

- 7.1 The delivery schedule expected by the Purchaser for plant, machinery and equipment and the performance of its services is indicated in the tender. If the delivery schedule cannot be adhered to, the tenderer shall quote for his best and earliest delivery.

- 7.2 In the case of imported plant, machinery and equipment, the delivery shall mean FOB Port of Shipment. In the case of locally procured/indigenous items, the delivery shall mean FOR site including unloading at Site.
- 7.3 The tenderers shall submit with his offer a time schedule, showing the individual time periods required for submission of drawings, procurement, manufacture, fabrication, delivery, etc. The schedule shall also show the estimated Installation time, based on normal Site work, six (6) days a week and eight (8) hours a day, as well as the time for start-up, putting into commission, performance guarantee tests and provisional acceptance. In addition, the successful tenderer shall submit the schedules accompanied by a network diagram, incorporating all important activities and their estimated duration from the award of the Contract to its completion indicating clearly the critical path.
- 7.4 The successful tenderer shall be responsible for coordinated delivery of all plant, machinery and equipment, both from abroad and India, and shall ensure deliveries in the sequence in which they will be required at Site for installation. He shall affect delivery of plant, machinery equipment, materials etc. generally as under:
- 7.4.1 Plant, Machinery and Equipment, refractory and lining materials shall be delivered according to the billing cum shipping schedule and in general the sequence in which they will be required at Site for installation and erection.
- 7.4.2 Large size foundation Bolts, Bolts of special design, special embedment, etc. as per Clause 3.3.6 hereof shall be delivered well in advance of the equipment so as to be available at Site during the construction of the related foundations.
- 7.4.3 Commissioning spares as per Clause 3.3.9 hereof shall be delivered along with the plant, machinery and equipment.
- 7.4.4 Save and except elsewhere provided in the Contract, Spare parts for two (2) years normal work of the plant, machinery and equipment hereof shall be delivered prior to the provisional acceptance of the plant, machinery and equipment.
- 7.4.5 Special tools for repair and maintenance as per Clause 3.3.10 hereof shall be delivered prior to the provisional acceptance of the plant, machinery and equipment.
- 7.4.6 Specialized installation tools, tackles, instrument and appliances as per Clause 3.7.5 hereof shall be delivered before installation of the plant, machinery and equipment and the same shall remain the property of the successful tenderer.
- 7.4.7 Save and except elsewhere provided in the Contract, consumables as per Clause 5.5 hereof shall be delivered prior to commencement of installation of the plant and equipment.
- 7.4.8 Drawings and documents shall be delivered in the sequence outlined in Clause 17.14.3 for the due and effective performance of Contract.

8.0 TRANSPORTATION

- 8.1 The successful tenderer shall deliver all imported plant, machinery and equipment on FOB Port of shipment.

For indigenous items, the successful tenderer shall deliver the plant, machinery and equipment FOR site including unloading at Site.

For imported items the Purchaser will make arrangements to ship the cargo, pay the marine insurance, clear the consignment at Indian port, pay the custom's duty and arrange for obtaining the customs clearances and dispatch to and unloading at plant site.

Within the framework of the installation services referred to in Clause 3.6 and 3.7 above, the successful tenderer shall be responsible, if required by the Purchaser to give his expert advice and guidance in regard to the safe handling of cargo during unloading at India port and for dispatching to site.

9.0 INSURANCE

- 9.1 The successful tenderer shall provide all insurance up to the FOB port of shipment stage for imported items and up to the FOR site stage for indigenous items and unloading thereof, as per Clause 25 of the General Conditions of Contract.

10.0 LICENSES AND TAXES

10.1 Licenses

10.1.1 All export or other licenses or permits which may be required by law and/or regulations of the country in which any of the plant, machinery and equipment covered by this tender is produced or sold will be obtained by the successful tenderer at his expense. If any such license is required, a copy of the license is to be submitted to the Purchaser within three months from the date of signing of Contract and before the release of first payment for such plant, machinery and equipment or a self-declaration by the successful tenderer that such license is not required.

10.1.2 The Purchaser will, at his expense, obtain necessary licenses and permits if or as may be required under law or regulations to import the plant, machinery and equipment into India. The successful tenderer and the Purchaser will furnish each of such information and assistance as may be necessary to procure the issuance of such licenses or permits.

10.2 Taxes

10.2.1 All statutory taxes, duties, fees, cess & levies payable outside India on the goods sold/services provided to the Purchaser shall be borne and paid by the successful tenderer.

All statutory customs/import duties, taxes, fees, cess & levies, etc. in India on the imported goods on amount payable in foreign currencies shall be borne and paid by the Purchaser.

Any tax applicable in India on foreign training provided by the tenderer outside India will be borne and paid by the Purchaser and shall not be included in the Contract Price to be quoted by the tenderer.

The Contract Price to be quoted by the tenderer for providing Installation services in India will be exclusive of service tax or any other duties, cess applicable for such services.

The successful tenderer shall be liable to pay the applicable income taxes under Indian Income Tax Act 1961 or under Double Taxation Avoidance Agreement as the case may be for income earned or in respect of income deemed to accrue or arise in India. The applicable withholding tax/other taxes for providing Installation services in India by the tenderer will be deducted by the Purchaser. A certificate for tax deduction at source shall be issued by the Purchaser to the successful tenderer to get the necessary tax credit for filing the tax return in their home country.

The successful tenderer shall be liable to pay and shall pay the relevant income tax if and as applicable to the personnel/experts deputed by them for providing Installation services in India under this Contract. The tenderer shall be responsible and comply with all the relevant laws including labour, employment, etc. of such personnel/experts.

- 10.2.2 Income tax in India, if leviable and other taxes in relation thereto on any other account shall be borne and paid by the successful tenderer. The successful tenderer shall be responsible to furnish the Permanent Account Number, Tax Residency Certificate, tax declarations along with the Tender and shall be liable to file tax returns with respective income tax authorities as required under the Indian Income Tax Act.

All payments under the Contract to the successful tenderer shall be subjected to deduction of taxes at source at the applicable rates in force as per the provisions of the Indian Income Tax Act or Double Taxation Avoidance Treaty whichever is more beneficial to the tenderer. Where the benefits of double taxation are to be availed, it shall be the responsibility of the tenderer to furnish the Tax Residency Certificate to the Purchaser required under the Indian Income Tax Act. Tax deduction at source towards payment for on-site services will be made by the Purchaser as per applicable rate and the certificate thereof shall be provided to the tenderer by the Purchaser.

- 10.2.3 In the case of indigenous equipment, sales tax, VAT, CST, octroi, entry tax and other taxes and duties shall be borne by and to the account of the successful tenderer and shall be included in the prices quoted by them. The Contract Price shall be inclusive of all taxes, duties, octroi, entry tax, levies, cess and other statutory impositions existing as on the date seven (7) days before due date of submission of the final price bid. The tenderers shall separately indicate and quantify (against each head) the basic price, incidence of tax, duty, cess and other statutory imposition etc. that they have included in the price quoted by them.

- 10.2.4 The Purchaser shall use his best efforts to get tax exemptions/concessions applicable in India, if any, to enable the tenderer to benefit from such tax savings to the maximum allowable extent. The successful tenderer shall pass on such benefits to the Purchaser in this regard. Tax deduction at source under VAT Act shall be made by the Purchaser on the Contract Price and as per exclusions provided under the Act.
- 10.2.5 Base date of the Contract shall be the date seven (7) days before last date of submission of price bid.
- 10.2.6 The successful tenderer shall make “Sale in Transit (E-1)” as per Section 6(2) of Central Sales Tax Act 1956 and all formalities required shall have to be observed by the successful tenderer. The Purchaser shall issue necessary Concessional Sales Tax Declaration Form ‘C’ and other Concessional Sales Tax Declaration Form as applicable for State Sales Tax.
- 10.2.7 Any Statutory variation occurring after the Base Date of Contract in the taxes, duties, levies, cess etc. and / or imposition of new taxes, duties, levies, cess, etc. in relation to goods and services in India in the course of the performance of the Contract will be to Purchaser’s account and payable at actual against documentary evidence. If the rate of taxes, duties, levies, cess etc. applicable in India is increased or decreased on the price indicated in foreign currency, or new tax is introduced in the course of the performance of Contract, the same shall be to Purchaser’s account at actual.
- 10.2.8 Service tax and education cess for the indigenous services shall be paid to the successful tenderer against each invoice. The invoice for the service portion shall separately indicate the service tax and education cess claimed by the successful tenderer along with their relevant service tax registration number obtained by the successful tenderer.

11.0 GUARANTEE AND PERFORMANCE

- 11.1 The tenderer shall guarantee the workmanship and materials, and satisfactory operation of all items of the plant, machinery and equipment offered by him, with respect to all individual items and collective items comprising a group of equipment, and for the whole plant, machinery and equipment, in accordance with the performance requirements indicated in the Technical Specifications. In this respect, the offer shall include in clear detail the various outputs, consumption and performance guarantee for the Plant, Machinery and Equipment offered.

12.0 PRICES

- 12.1 The tenderer shall include in his offer prices for all materials and services as specified in the tender documents and in manner stated in the relevant articles/clauses/para of the Instructions to Tenderer.
- 12.2 Prices for plant, machinery and equipment, spares, special maintenance tools etc. shall be indicated as per the price bid format enclosed. The prices shall be itemized in accordance with and as stated in, the tender specification and are to be quoted in the following two parts:

- 12.2.1 For all imported items of plant, machinery and equipment, spares, special maintenance tools, etc. prices shall be quoted for delivery, duly packed, FOB Port of shipment, with indication of estimated CIF charge separately.
- 12.2.2 For all indigenous items of plant, machinery and equipment, spares, special maintenance tools, etc. Prices shall be quoted for delivery, duly packed, FOR site including unloading at Site.
- 12.3 Itemized weights shall be given to each of the major items specified in the scope of supply. Weight of the supplies shall be indicative and there shall be no bearing on the quoted price for any variance with actual weights.
- 12.4 Separate prices for supervision, complete Installation, start-up and putting into commission and other services, as indicated in Clause 3.6 and 3.7 above shall be quoted. These shall be inclusive of demonstration of performance parameters / tests.
- 12.5 For complete erection services, the detailed break-up of prices, such as cost of labour, supervisory personnel, consumable materials for erection, cost of site office, storage, provision of tools and tackles and accommodation and incidental expenses justifying the prices to be quoted under para 12.4 above, must be furnished in the tender.
- 12.6 In the case of the provision of erection of plant and equipment and putting them into commission, the tenderer shall indicate the prices and hire charges separately for each of the specialized erection tools, tackles, instruments and appliances, which in his opinion will be required for the erection of the plant and equipment. The Purchaser will inform the tenderer at the time of the finalisation of the Contract regarding the tools, tackles, instruments and appliances etc. he would like to purchase/hire out.
- 12.7 If some of the Installation and Commissioning personnel are required by the Purchaser beyond the provisional acceptance date, which are not covered in the Contract Price, the successful tenderer shall provide the same. The terms and conditions for these should be stated in the offer.

13.0 PRICE VARIATION

- 13.1 Tenderers shall offer firm prices. No escalation of any kind whatsoever shall be allowed by the Purchaser under the Contract.

14.0 FOREIGN CURRENCY TO BE STIPULATED

- 14.1 The foreign currency in which payments have to be effected shall be clearly mentioned in the offer against each item of work and finally the total of quotes in foreign currency.

15.0 TERMS OF PAYMENT

Subject to any deduction, which the Purchaser may be authorized to make statutorily or otherwise under the Contract, the terms of payment shall be as follows.

15.1 For Plant, Machinery & Equipment including Design, Engineering and Training

- (i) Ten (10) percent of the Contract price on the issue of letter of acceptance, furnishing of Security Deposit as per Clause 11.0 of GCC, a certificate from Contractor that Export licence has been received or a statement confirming that Export Licence is not necessary and bank guarantee for such advance payment along with 14% interest valid till FOB stage of last shipment.
- (ii) Ten (10) percent of the Contract price on furnishing of the following specified documents and drawings along with bank guarantee for similar amount with 14% interest valid till FOB stage of last shipment.
 - Name plate and numbering system
 - Preliminary list of drawings with submission schedule
 - Preliminary layout drawings including location of main equipment
 - Certified foundation drawing, data, etc.
 - Complete Electrical single line diagrams
 - Data on cranes including capacity hook approach, number of cranes, rail height and weight of bay
- (iii) Sixty (60) percent of the value of each and every part shipment payable against the presentation of necessary negotiable documents proving that the goods are delivered FOB port of shipment in the case of imported equipment and dispatched FOR site in the case of indigenous equipment.
- (iv) Ten (10) percent of the Contract price after completion of erection and issue of Provisional Acceptance Certificate.
- (v) The last Ten per cent (10 %) of the Contract price after furnishing of a Certificate from Purchaser that all documents as per Clause 17.0 of GCC is received and issuance of Final Acceptance Certificate i.e. after the completion of the guarantee period which is twelve months of regular and reliable working of the plant, consistent with normal starting up operation after issuance of PAC or a Bank Guarantee for ten (10) percent of Contract price valid for twelve months from the date of Provisional Acceptance Certificate.

15.2 Supervision for erection, start-up and putting into commission:

The terms of payment shall be hereunder:

- (i). Eighty percent (80%) of the fixed portion of the price in suitable equal monthly instalments at the end of each completed month, the first instalment being payable on the commencement of Erection, subject to adjustment if the progress of the work is not according to schedule.

- (ii). Twenty percent (20%) of the fixed portion of the price on the issuance of Provisional Acceptance Certificate.

15.3 Complete Erection, Start and Putting into Commission:

The terms of payment shall be as follows:

- (i). Ten percent (10%) of the Contract Price for equipment erection on the opening of crates and packing cases to the extent required to start erection, inspection of equipment, repair and replacement if necessary and transportation of equipment to the erection Site.
- (ii). Forty percent (40%) of the Contract Price for equipment erection on the checking of foundation, including final adjustment of foundation, pre-assembly of equipment, if necessary, and placing of equipment on foundation.
- (iii). Forty percent (40%) of the Contract Price for equipment erection on final alignment, lining, levelling, grouting and connecting-up electric power supply, water and utilities.
- (iv). Ten percent (10%) of the Contract Price for equipment erection on the issuance of Provisional Acceptance Certificate.

15.4 Spares:

Terms of payment shall be as follows:

- (i). Ninety percent(90%) of the value of spares for each and every part shipment against the presentation of necessary negotiable documents proving that the goods are delivered FOB port of shipment /dispatched FOR Site.
- (ii). Ten (10%) of the value of spares ordered after issue of Provisional Acceptance Certificate.

15.5 The Contractor shall establish a letter of guarantee as per formats at annexure and from a bank acceptable to the Purchaser for advance and progressive payments claimed by him.

15.6 Subject to other provisions of the Contract, the payment shall also be made based on the following:

- (i) All payments shall be made directly by the Purchaser to the Contractor unless otherwise provided in the Contract or agreed between the Parties.
- (ii) If as per provisions of Contract any payment is made directly by the Purchaser to the Sub-Contractor, such payments shall constitute a proper discharge of Purchaser's obligations for such payments to the Contractor.
- (iii) The payments will be made in the currencies quoted by the Contractor and included in the Contract unless otherwise agreed between the Parties.

- (iv) The Contractor shall furnish the detailed Billing Schedule, for each item under the scope of work of the Contract, for the approval of Purchaser, which after the approval only, will be the basis for submission of invoices for progress payments.
- (v) The Purchaser shall release the payment to the Contractor in 30 days from the date of receipt of the complete and correct invoices and relevant documents.
- (vi) All interim / progress shall be regarded as payments by way of advance against the final payment only and not as payment for work completed and shall not preclude defective / imperfect / incomplete facilities to be removed. It will not be considered as an admission by the Purchaser of the due performance of the Contract, or an part thereof by the Contractor nor shall it preclude, determines or affect in any way the powers of the Purchaser under these conditions or in any way the powers of the Purchaser under these conditions or in any way wary or affect the Contract.

16.0 LETTER OF CREDIT

- 16.1 The letter of credit for the imported and indigenous plant, machinery and equipment shall be opened by the Purchaser within 15 (fifteen) days after receipt of the Bank Guarantee for security deposit and shall allow payment against the presentation of the following documents to the Bank:
- (i). Bill of lading/Airway Bill/LR (three (3) negotiable and three (3) non-negotiable copies) or photo copies of LR in case of indigenous equipment.
 - (ii). Commercial invoice (six (6) original copies).
 - (iii). Acceptance certificate for dispatch issued by the Purchaser.
Or
Inspection waiver certificate, if any, issued by the Engineer / Purchaser's authorized representative or Contractor's / his sub-contractor's internal inspection certificate / report.
 - (iv). Packing List (ten (10) copies).
 - (v). Certificate of Origin.
 - (vi). Copy of faxintimation to the Purchaser's insurer furnishing the shipment details.
- 16.2 All bank charges outside India including confirmation charges shall be to the successful tenderer's account. Charges for counter guarantee by Purchaser's bank in respect of Standby LC or BG shall be borne by the Purchaser. The Bank charges for opening and maintaining LC will be to Purchaser's account.
- 16.3 If opening of operating letter of credit is delayed beyond the time period specified above due to reason attributable to the Purchaser, the Contract time schedule shall be extended accordingly.

- 16.4 The letter of credit shall be initially valid for a period of 30 (thirty) days more than the Delivery period for the realization of all the payments covered under the letter of credit with a provision of extension on request of successful tenderer without affecting the Work Schedule read with Clause 41.18.7 of the General Conditions of Contract. The letter of credit shall be established as per the enclosed format (to be finalized before signing of the Contract and shall be part of Contract).
- 16.5 Purchaser shall establish irrevocable letter of credit for at sight payment and unrestricted negotiation against letter of credit complying documents. The letter of credit shall be established by Purchaser within the period as specified above by a first class bank of international repute and shall be advised through successful tenderer's designated bank. The transshipment and partial shipment shall be allowed.
- 16.6 Purchaser shall extend the validity of letters of credit if so required within 10 (ten) working days of written request by successful tenderer. In case the validity of the letters of credit needs to be extended due to reasons attributable to the successful tenderer (Contractor), then the Purchaser shall extend the validity of letters of credit at successful tenderer's expense. In case the validity of letters of credit needs to be extended due to reasons attributable to Purchaser, then the Purchaser shall extend the letters of credit at its own expense.
- 16.7 The banks for establishing the letters of credit by the Purchaser and the banks issuing the bank guarantees to be submitted by the successful tenderer shall be mutually agreed upon between the parties. However, for the Purchaser, the bank is State Bank of India, Chandrayangutta.
- 16.8 Subject to the terms and conditions agreed between the parties, the letters of credit shall be subject to Uniform Customs and practice for documentary credits (2007 Revision) of International chamber of Commerce (ICC Publication No. 600).

17.0 CAPACITY OF THE TENDERER

Save as otherwise stated elsewhere, the following shall be the pre-qualifying criteria.

- 17.1 The tenderer should submit a detailed statement of similar plant, machinery and equipment supplied/built by him during the last ten (10) years or as stipulated in the tender.
- 17.2 The tenderer shall satisfy the Purchaser that he possesses the necessary and requisite technical experience, expertise and qualifications and that he has at his disposal suitable modern facilities and staff of specialized personnel to ensure that his contract work is of the best quality and workmanship, according to the latest engineering practice. The tenderer shall furnish necessary particulars in this behalf with the tender.
- 17.3 No proposal by the tenderer will be considered unless the plant, machinery and equipment named therein is manufactured by a company which has had at least five (5) years previous experience in the design and manufacture of plant, machinery and equipment of comparable type and size and/or as stipulated in the tender.

17.4 Each tenderer shall submit in his proposal a list of qualifying units. The list shall include for each unit the date of initial operation, the location, capacity and operating conditions.

17.5 Legal Character and Capacity

The tenderer shall clearly state about its legal character and capacity and satisfy the Purchaser that he is competent and authorized to submit the offer and to enter into a legally binding contract with the Purchaser. To this effect, any person giving an offer shall render documentary evidence that his signature on the offer, submitted by him, is legally binding upon himself, his firm or company, as the case may be.

17.6 Authority of Person Signing Documents

A person signing the tender or any document forming part of the Contract, on behalf of another, shall be deemed to warrant that he has authority to bind such other and if, on enquiry, it appears that the person so signing had no authority to do so, the Purchaser may, without prejudice to any other civil and criminal remedies, cancel the tender / contract and hold the signatory liable for costs and damages.

17.7 Financial Capacity

The tenderer shall produce satisfactory proof such as annual reports, solvency certificate, etc. that he is financially in a position to fulfill the contractual obligation offered to be undertaken by him. In the case of Indian tenderers, the tenderer shall also submit the Income tax clearance certificate along with the tender and or as stipulated in the tender.

18.0 SUBMISSION OF TENDER

18.1 Tenders shall be sent by registered post or handed over personally so as to reach the Purchaser before due date, time and at the place specified in the invitation to tender. They shall contain a special declaration that the tenderer agrees to hold the tender open for the period indicated in this invitation to tender.

18.2 Tenders must be submitted in four (4) copies in sealed covers, super scribing the reference number and date of opening on the covers.

18.3 Unsealed tenders, unsigned tenders, tenders which are incomplete, or otherwise considered defective, are liable to be rejected.

18.4 No tender will be received after the stipulated time and date due to any reason whatsoever.

18.5 Tenders shall be received at the office of General Manager (C & BD), Mishra Dhatu Nigam Ltd., Hyderabad-500058, India, by the date mentioned on page 1 herein and opened at the same place on the date and time mentioned on page 1 herein above. Tenderers are at liberty to be present or authorize their representatives to be present at the time of the opening of the tenders.

19.0 PERIOD OF VALIDITY OF TENDER

- 19.1 The tender and the price quoted shall be deemed to remain valid for acceptance for a period of six (6) months from the date of submission. In the event of termination of the tender process due to reasons not attributable to the successful tenderer the Purchaser shall release the Earnest Money Deposit (EMD) without interest. However, if the same pertains to the reasons attributable to the successful tenderer, the EMD of the successful tenderer shall be forfeited. In any of the cases whatsoever the Purchaser shall not be liable for any extra cost or expenses or shall not be liable to pay any claim or expenses to the successful tenderer.

20.0 LANGUAGE

- 20.1 The tender shall be submitted in the English language.

21.0 ARRANGEMENT OF TENDER

- 21.1 The tender shall be neatly arranged, plain and intelligible, or printed on white paper, with consecutively numbered pages in solid binding. They should not contain any terms and conditions, prints or otherwise, which are not applicable to the tender.
- 21.2 Insertions, postscripts, additions and alterations shall not be recognized, unless confirmed by the tenderer's signature.

22.0 EARNEST MONEY

- 22.1 The tender must be accompanied by earnest money in the form of Demand Draft or Bank Guarantee or Electronic fund transfer, in favour of the Purchaser. Tenders not accompanied by earnest money will not be considered. The earnest money shall be kept deposited for such period as may be specified for keeping the tender open. The earnest money will not earn any interest. If the tenderer after submitting his tender and during the tender's validity period, withdraws his offer or modifies the terms and conditions thereof, in a manner not acceptable to the Purchaser, or upon award of contract does not submit Security Deposit then the earnest money shall be liable to be forfeited. Earnest Money shall be kept valid for eight (8) months and will be extended till the successful tenderer submits security deposit. The Bank Guarantee and security deposit shall be provided as per the enclosed formats.
- 22.2 On the acceptance of the tender, but not earlier than the expiry date of the period for which the tender is kept open, the earnest money will be returned to the unsuccessful tenderers.
- 22.3 Should an invitation to tender be withdrawn or cancelled by the Purchaser, which it shall have the right to do at any time, the earnest money paid with the tender will be returned.
- 22.4 On the tender being accepted by the Purchaser, an agreement in respect of the Contract, will be signed and executed by and between the Purchaser and the successful tenderer in accordance with the terms of Clause 10 of the General Conditions of the Contract. The successful tenderer shall also be required to deposit, within 30 (thirty) days of the acceptance of his tender/issue of Letter of Intent/Acceptance, Security Deposit at 10% of the total Contract Price with the Purchaser in

the manner indicated in Clause 11 of the General Conditions of Contract. Should the successful tenderer, upon the acceptance of his tender, fails or refuses to duly sign the agreement or fails or refuses to furnish the security deposit within the period fixed by the Purchaser as indicated above, the earnest money shall be forfeited without prejudice to his being liable for any further loss or damage incurred in consequence by the Purchaser.

22.5 The earnest money shall be returned to the successful tenderer after the security deposit has been furnished to the Purchaser in accordance with Clause 11 of the General Conditions of Contract.

23.0 NO CLAIM FOR COMPENSATION FOR SUBMISSION OF TENDER

23.1 The tenderer whose tenders are not accepted shall not be entitled to claim any costs charges and expenses of the tender, incidental to or incurred by them, through or in connection with their submission of tenders, even though the Purchaser may elect to withdraw the invitation to tender.

24.0 INSURANCE POLICY FOR WORKMEN

24.1 The successful tenderer shall also take insurance policy for suitable amount for payment of an ex-gratia per head in case of fatal accident to the contract labour engaged by him in addition to the Workmen's Compensation Insurance Policy. As and when a fatal accident takes place, along with the workmen compensation, the Contractor is required to pay ex-gratia amount within 30 (thirty) days from the date of accident.

25.0 LOWEST TENDER MAY NOT NECESSARILY BE ACCEPTED

25.1 The Purchaser is not bound to accept the lowest or any tender or to assign reasons for its non-acceptance. The Purchaser also reserves the right to accept the tender either in whole or in part.

26.0 CONTRACT

26.1 On a tender being accepted by the Purchaser, a Contract will be signed and executed by and between the Purchaser and the successful tenderer in accordance with the terms of Clause 10 of the General Conditions of the Contract. The Purchaser and the successful tenderer will bear their respective cost incurred by them for signing the Contract.

27.0 NOTICES ON BEHALF OF PURCHASER

27.1 Notices and certificates on behalf of the Purchaser or Contractor in connection with the Contract may be given by a duly authorized officer of the Purchaser or Contractor whose name shall have been previously communicated by the Purchaser in writing.

28.0 ADDENDA TO TENDER DOCUMENTS

28.1 The Purchaser reserves the right to issue addenda to the tender documents to clarify, modify, supplement or delete any of the conditions, clauses or items stated in the tender documents issued with this invitation to tender. Each addendum issued will be distributed to each tenderer or his authorized representative or published in newspapers / web and the addendum so issued shall form a part of the original tender documents to be reviewed as required.

29.0 QUERIES/CLARIFICATIONS

- 29.1 Queries/clarifications either technical, financial or commercial, if any, that may arise should be referred by the tenderer by mail/email/fax direct to the General Manager (C& BD) Mishra Dhatu Nigam Ltd., Hyderabad-500058, India.
- 29.2 All tenderers are requested to take special note of the above procedure and observe the same strictly.

30.0 INTEGRITY PACT

- 30.1 In respect of all Contracts for procurement of capital equipment for a value exceeding Rs. 20 Crores, tenderers shall sign 'Integrity Pact' with the Purchaser in the format enclosed.

31.0 ADDITIONAL INSTRUCTIONS TO THE TENDERERS**31.1 Agency Commission:**

Either the Indian agent on behalf of the foreign principal or the foreign principal directly could bid in this tender but not both. Further, in case where an agent participates in this tender on behalf of one manufacturer, he is not entitled to quote on behalf of another manufacturer along with the first manufacturer for the same item.

The Seller confirms and declares to the Buyer that the Seller is the original manufacturer or authorized vendor of original manufacturer or Government sponsored/ Designated Export Agencies (applicable In the case of countries where domestic laws do not permit direct export by OEMs) of the stores referred to in this offer/ Contract/ Purchase Order and has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to Buyer or any of its functionaries, whether officially or unofficially, to the award of the contract / Purchase order to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Seller agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller has engaged any such individual/firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract / Purchase Order, the Seller will be liable to refund that amount to the Buyer. The Seller will also be debarred from participating in any RFQ / Tender for new projects / program with Buyer for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract/ Purchase Order either wholly or in part, without any entitlement or compensation to the Seller who shall in such an event be liable to refund all payments made by the Buyer in terms of the Contract / Purchase Order along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for Foreign vendors) and Base Rate of SBI plus 2% (for Indian vendors). The Buyer will also have the right to recover any such amount from any contracts / Purchase Orders concluded earlier with Buyer.

31.2 Price Negotiations

Price negotiations as such shall not be held, except in the case of negotiations with the lowest tenderer and accordingly, the tenderers shall have to submit their best Price Bids.

31.3 **Tender Documents through Website**

The tender documents are also available in the Purchaser's website www.midhani.gov.in.

31.4 **Submission of Tender**

Tender may be submitted either by Speed Post, Courier or by person. The tender shall contain a special declaration that the tenderer agrees to hold the tender open for the period indicated in this Instruction to Tenderers. No tender will be received after the stipulated time and due date, due to any reason whatsoever.

31.5 **Mode of Submission of Tender**

Tenderers are required to submit their tenders in two (2) parts, namely,

Part I: Techno-Commercial Bid with all terms & conditions-

Detailed technical specifications should be furnished along with catalogue/literature of original manufacturer and submitted separately super scribed as "Techno-Commercial Bid" (Un-priced) indicating the tender No. & due date of opening duly sealed.

Part II: Price Bid-

The priced offer/quotation should be submitted separately not along with Part I super scribed as Price Bid indicating the Tender No. & due date of opening duly sealed.

31.6 Unsealed and unsigned tenders and tenders that are incomplete or otherwise considered defective are liable to be rejected.

31.7 **Tender Opening**

A. **Techno-Commercial Bids**

After being satisfied that EMD of the tenderers have the required validity, Techno-Commercial Bids shall be accepted from the tenderers and shall be opened in the presence of authorized representatives of the tenderers who choose to be present at the time of tender opening. The comparative assessment of offers/bids received would be made on equal footing.

B. **Pre Price Bid Meeting**

Save and except otherwise elsewhere provided, a Pre Bid meeting, before submission of Price Bid, will be held with the Bidders on a date to be separately intimated after opening

of Techno Commercial bids. Upon completion of the pre price-bid meeting, price bids as specified herein below shall have to be submitted by the tenderers.

C. Price Bids

The Price Bids of only those tenderers will be opened whose Techno-Commercial Bid has been qualified for price bid opening.

The comparative assessment of offers received would be made on equal footing taking into account the financial implications for the deviations in terms and conditions.

Conditional discounts offered by the tenderers for coverage within a shorter period for early inspection/payment etc., shall not be considered at the time of evaluation of tenders.

31.8 Pre-bid conference

In case of turn-key contract(s) or contract(s) of special nature for procurement of sophisticated and costly equipment, a pre-bid conference will be held for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the plant, equipment and machinery & commercial terms projected in the bidding document. The date, time and place of pre-bid conference shall be indicated in the bidding document.

32.0 OVERRIDING EFFECT

32.1 In case of any inconsistency or repugnancy between any provision of Instructions to tenderer and General Conditions of Contract on the same subject matter, the provisions of the Instructions to tenderers shall prevail over General Conditions of Contract and will have overriding effect over those conditions.

33.0 CONSORTIUM

33.1 If a tenderer submits his bid in consortium then they will supply copy of the consortium agreement among the members of the consortium clearly identifying their respective scope of Work, strength of the consortium members and other relevant details. In that case the members of the consortium will be jointly and severally liable to perform the entire Contract. With a view to ensure this, the bank guarantee towards Security Deposit for the entire Contract will be liable to be forfeited even for any breach or non-performance on the part of any of the consortium members.

PART II
TECHNICAL SPECIFICATION

PART II
GENERAL CONDITIONS OF CONTRACT

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1.0 PURPOSE

- 1.1 This document shall accompany and be a part of the Contract entered into by Mishra Dhatu Nigam Limited, Telangana for the provision of materials, plant, machinery, equipment and services required for the effective implementation of the Project.
- 1.2 The purpose of this document is to establish general conditions for the purchase of plant, machinery and equipment, erection, supervision, and complete installation and erection services which shall be binding upon all Contractors. The Contractor shall, not limited to the following, undertake design and engineering, and supply of plant, machinery and equipment, intermediate storage and handling of electrics and automation, erection, installation and automations, supervision of erection of facilities, testing, pre-commissioning, start up and commissioning and demonstration and establishment of performance guarantee parameters of the facilities. These general conditions are complementary to the Contract, Tender documents, Contract Drawings and Technical Specifications, etc. and anything appearing in one shall be construed as appearing in the other, unless specifically exempted.

2.0 DEFINITIONS

The following terms or expressions, as used in these “General Conditions of Contract” and in the appertaining invitation to tender and Tender Specification, shall have the meanings defined hereunder:

“**Approval of the Purchaser**” shall mean the written / stamped approval by the Purchaser or Engineer of a document, a drawing or other particulars or matters in relation to the Contract.

“**Base date of the Contract**” shall mean the date seven (7) days before last date of submission of price bid.

“**Bolt(s)**” shall include nuts and washers.

“**Cold Test**” means the no load test as per Technical Specification.

“**Contract**” shall mean and include the contract signed by and between the Purchaser and the Contractor, the invitation of tender, Contract/Technical Specifications, the instruments to tender, the tender, letter of intent, acceptance of tender, contract drawings, contract price and particulars hereinafter defined in respect of the supply and delivery of materials and for the performance of services within the scope of the Work of the entire Project or envisaged for the extension or expansion thereof and these general conditions and such special conditions that may be added and agreed to, and shall also include any agreement signed by and between the Purchaser and the Contractor in terms of Clause 10 hereof.

“**Contract Drawings**” shall mean the designs, plans drawings, sketches and details which have been supplied by the Contractor for the execution of the Contract and approved by the Purchaser.

“**Commissioning**” means the successful operation of the plant, machinery and equipment under no load and load conditions and production of first specified quantity as per the Technical Specifications, including execution of the Performance Tests, as per the Technical Specification.

“**Contractor**” shall mean the Tenderer whose tender has been accepted by the Purchaser and shall include his/its/heirs, executors, administrators, legal representatives, successors and assign approved by the Purchaser.

“**Contract Price**” shall have the meaning as provided in Clause 18 of General Conditions of Contract.

“**Contract Specifications**”/ “**Technical Specification**” shall mean the specifications, detailed design statements of technical data, performance characteristics and all such particulars mentioned as such in the Contract.

“**Defect Liability Period**” means the period of validity of the guarantees given by the Contractor commencing from the date of issuance of the PAC during which the Contractor is responsible for the defects with respect to the Work as provided in Clause 32 hereof.

“**Delivery**” shall mean delivery by the dates/period specified in the Contract for supply of plant, machinery & equipment and completion of services, wherever applicable which are found acceptable by the Purchaser and not the submission of materials which are not to the required standard or which are not delivered by due dates, and in case of erection work, delivery shall mean the approval by the Purchaser of the said erection work, within the period prescribed for such completion.

“**Dimensions**” shall mean the extent of a line, area or volume. They are to be based on the metric system. i.e.

For length measurement, in km-

- 1 km = 1000 m
- 1 m = 100 cm
- 1 dcm = 10 cm
- 1 cm = 10 mm
- For surface measurement, in sq.m
- For volume measurement, in cu.m.

“**Effective Date**” shall mean the date of signing of the Contract.

“**Engineer**” as used herein shall mean M/s. Mishra Dhatu Nigam Limited having its registered office at P.O: Kanchanbagh, Telangana-500058, India, or such other engineer or engineers as are designated by the Purchaser.

“**Final Acceptance of the Works**” shall mean the Final Acceptance Certificate (FAC) to be issued at the end of successful completion of the Defect Liability Period.

“**FOR Site**” shall mean delivered, duly packed, free of expense to Purchaser, on board a road transport vehicle, unloading at the Purchaser’s stores at the plant Site or the erection/Installation Site.

“**FOB port of Shipment**” shall mean delivered, duly packed, free of expense to Purchaser, placed on board a transport vessel at the port of Shipment.

“**Guaranteed Performance**” or “**Specified Performance**” or “Performance Guarantee” means attaining the range of values specified in the Technical Specification, subject to other terms and conditions of the Contract.

“**Hot Test**” means the production of the first specified quantity as provided in the Technical Specification.

“**Inspector**” shall mean any person or agency nominated by or on behalf of the Purchaser to inspect supplies, materials, plant, machinery and equipment or work under the Contract.

“**Installation**” or “**Erection**” shall mean the putting up under the particular contract of structures and/or installation and erection on turnkey basis of plant, machinery and equipment with all accessories supplied and will include supervision services for installation, erection, start up and commissioning and any service which the Contractor is required to perform for the due fulfilment of his contract at the Site with his own and/or other staff or labour made available to him and with the aid of his own and/or other staff, labour and equipment and auxiliary materials placed at his disposal.

“**Instructions to Tender**” shall mean and/or include the enquiry for the supply, delivery, installation including foundations and civil engineering work where necessary, and starting up of the plant or plants, or performance of service or services in connection with the Project or for the planned extension or expansion thereof.

“**Purchaser**” as used herein shall mean Mishra Dhatu Nigam Limited, incorporated under the Companies Act, 1956, and having its registered office at P.O.: Kanchanbagh, Telangana-500058, India, and shall include its successors and assigns in office.

“**Project**” shall mean the project or scheme in respect of the Purchaser’s new venture and/or facilities including erection/installation, training and all related and incidental services in relation thereto.

“**Provisional Acceptance of the Works**” or “**PAC**” shall mean the Provisional Acceptance Certificate (PAC) to be issued after the successful completion of the PG test.

“**Performance Test**” or “**PG Test**” means such tests to be carried out as per Technical Specification and Clause 31 hereof, to demonstrate the achievement of the Guaranteed Performance before the Provisional Acceptance Certificate is issued.

“**Schedule/ Work Schedule**” shall mean the accepted time schedules between the Contractor and the Purchaser forming a part of the Contract and shall indicate the Delivery and the major activities in the completion of the Work.

“**Site**” means the land and other places on, under, in or through which the plant, machinery and equipment supplied by the Contractor are to be erected, installed and commissioned and/or services under the Contract are to be executed or carried out, and any other lands or places which are, or have been provided by the Purchaser.

“**Sub-Contractor(s)**” shall mean a person, firm or corporation who directly or indirectly supplies services or materials to a Contractor or to Purchaser on behalf of the Contractor and to whom the

execution of any part of the Project including preparation of any design or supply of any plant, machinery and equipment is sub contracted directly or indirectly by the Contractor and includes its successors or permitted assignees.

“**Tenderer**” shall mean the person, firm or corporation submitting a tender against the invitation to tender and shall include his/its heirs, executors, administrators, legal representatives, successors and permitted assign.

“**Tender Specification**” shall mean the design, data drawings, schedules, broad equipment, characteristics and other technical details furnished with the Invitation to Tender for the purpose of submitting the offer by the Tenderer.

“**Time**” shall be reckoned by months, days and hours, the period of a month being equivalent to the calendar month according to the Gregorian calendar.

“**Test(s)**” shall include all test or tests made, without releasing the Contractor of his liability, as may be considered necessary by the Purchaser or its duly authorized representative, in order to ascertain the quality and efficiency of the contract Work or parts thereof and performance of the plant, machinery and equipment and material tests in particular.

“**Plant, Machinery, Equipment, Facility, Materials, or Stores**” or “**Work**” shall mean all or any part of the materials, equipment, drawings, supervision of erection, commissioning, Installation and start up and other services required for the design, supply and execution of the work which is either specially required by the Contractor or is required in connection with such services and such materials or which is within the scope of the Contract and not specifically excluded by the contract from the materials and services which the Contractor is obligated to furnish under the Contract or implied from Tender Specifications, drawings and schedules thereto annexed or incidental thereto.

“**Weight**” shall mean the calculation of a load. It shall be stated in metric system using Grams and Kilograms, Specifically the weight unit “**Ton**” shall mean ‘metric ton’ equal to 1,000 kilograms.

Words importing persons shall include firms, companies, corporations, associations or body of individuals whether incorporated, registered. Words importing masculine gender or singular number shall also include the feminine gender and plural number and vice versa where the context so requires or permits.

Tender Drawings-The term “**Tender Drawings**” shall mean such drawings, plans, sketches and details as are issued together with the Purchaser’s tender specification for the purpose of preparing tenders.

3.0 ENGINEER

3.1 Powers of Engineer:

To ensure the proper execution of the Contract, the Engineer reserves the right of:

- (a) supervision and direction of the Contract,

- (b) directing or amending the sequence of deliveries of plant, machinery and equipment and other services,
- (c) directing the application of Contractor's labour and machinery forces to any portion of the work as required,
- (d) ordering the increase or decrease of the size of the labour and machinery and to resolve issues which arise in the execution of the Contract,
- (e) rejecting any or all work and materials, plant, machinery and equipment which do not conform to the Contract,
- (f) stopping the work of execution whenever such stoppage may be necessary.

3.2 Duties of Engineer

- (a) to inspect the plant, machinery, equipment and materials,
- (b) to follow up and monitor proper delivery of the plant, machinery, equipment and materials to Site as per the specifications and drawings and as per the sequence required,
- (c) to watch and supervise the Works,
- (d) to inspect and test any materials to be used or workmanship employed in connection with the Works.

Any instructions or approvals given by Engineer to the Contractor in connection with the Contract shall bind the Contractor.

3.2.1 The Engineer shall have no authority to relieve the Contractor of any of his duties or obligations under the Contract except as expressly provided hereunder or elsewhere in the Contract, to order any work involving delay, any extra payment by the Purchaser and any variation in the Works.

3.2.2 Failure of the Engineer to reject any plant, equipment, materials, workmanship etc., or to disapprove any work or materials shall not prejudice the Purchaser to reject such plant, machinery and equipment, materials, workmanship etc., or to disapprove such work or materials and to order re-supply of such plant, machinery and equipment and materials or to pull down, remove or break up such disapproved work at the cost of the Contractor, provided the Contractor fails to comply with the direction and requirement of the Purchaser therefor. The decision, opinion, certificates or valuation of the Engineer/Purchaser in respect of any matter under this Clause shall be final, binding and conclusive.

- 3.2.3 If the Contractor is dissatisfied by reason of any decision, opinion, direction, certificate or valuation of the Engineer, he shall be entitled to refer the matters to the Purchaser who shall thereupon confirm, reverse or vary such matters based on its sole discretion.

4.0 ASSIGNING AND SUBCONTRACTING

- 4.1 **Assigning:** The Contractor shall not transfer or assign the Contract or any part thereof or any benefit or interest therein or there under without the written consent of the Purchaser. In the event of the Contractor contravening this condition, the Purchaser shall be entitled to place the Contract elsewhere on the Contractor's account and at the Contractor's risk and cost and that the Contractor shall be liable for any loss or damage which the Purchaser may sustain in consequence or arising out of such replacing of contract. This shall not relieve the Contractor of any responsibility under this Contract.
- 4.2 **Sub-contracting:** The Contractor shall not sub-contract the whole or any part of the Works without the prior Approval of the Purchaser except as stipulated otherwise in the Contract and/or for purchases from approved vendor's list. The list of approved vendors forming a part of the Contract Specification specifies major items of supply or services and indicates name of approved vendors against each such items. Such approval if given shall not establish any contractual relationship between the Sub-Contractor and the Purchaser and shall not relieve the Contractor of any responsibility, liability or obligation under the Contract and the Contractor shall be solely responsible for the acts, defaults and neglects of any sub-contractor or his agents, servants or workmen. In the event of the Contractor contravening this condition, the Purchaser shall be entitled to place the Contract elsewhere on the Contractor's account and at his risk and cost and then the Contractor shall be liable for any loss or damage which the Purchaser may sustain in consequence or arising out of such replacing of the Contract. This shall not relieve the Contractor of any responsibility under this Contract. The Contractor may from time to time propose any addition to approved vendors list to the Purchaser for its approval. The Contractor shall submit any such addition of vendors to the Purchaser along with sufficient details of their capability, past records, contact details etc. The Purchaser may approve/ comment on the list of such vendors.
- 4.3 Notwithstanding the approval given by the Purchaser for sub-contract, it shall continue to be obligatory on the part of the Contractor to provide to the Purchaser all drawings, specifications, technical data, detailed design, performance characteristics etc. from his Sub-Contractors.
- 4.4 In the event of the Purchaser agreeing for the sub-suppliers/Sub-Contractors proposed by the Contractor, it shall be obligatory on the part of the Contractor to deploy their technical experts in the works of the sub-suppliers/Sub-Contractors to direct and exercise control over quality of plant, equipment, materials and workmanship during the manufacture. However, the same shall not relieve the Contractor of any of his obligations, duties or responsibilities under the Contract.
- 4.5 The Purchaser shall have the right to specify the brand name/s of the standard bought out items in the Contract and the Contractor shall procure such items from those branded name/s. This shall, however, not relieve the Contractor of his other obligations under the Contract.

5.0 SITE EXAMINATION

- 5.1 The Contractor shall have visited, inspected and examined the Site of the Work and its surroundings and ascertained there from all conditions and information pertaining to the Work and shall satisfy itself prior to the preparation and submitting of the tender all such information and conditions including but not limited to the various facilities available at the Site for the receipt, storage and custody of the materials, as to the nature of the ground and sub soils, the form and the nature of the Site, the quantities and the nature of the Work and facilities necessary for transportation, erection, installation, testing and commissioning of the works and the means of access to the Site and in general shall obtain all necessary information as to the working conditions, risk, contingencies and other circumstances which may influence or affect the tender and performance of the Work. No claim by the Contractor shall be permitted or admissible arising from non-fulfilment of the above.
- 5.2 The Contractor shall also be deemed to have ascertained all special local and national standards, regulations, customs etc, which may affect his design, schedule, choice of supervisory personnel, etc. prior to the preparation of his tender. Typical of such information may include but not limited to the average Indian heights-of-eye (for design of control desks and pulpits) special restrictions or considerations, details of facilities to be expended, modified, or duplicated details of materials available in India etc. No claims for extra payment shall be permitted or admissible on these accounts.

6.0 EXTENT AND SCOPE OF CONTRACT

- 6.1 Extent of Contract: The Work comprises of design and engineering, manufacture and supply of plant, machinery and equipment, storage, erection work (including associated civil & structural works as specified), testing, start-up and commissioning, demonstrating and establishing performance guarantee parameters of the work, including the facilities, materials and stores and guarantees thereof and the provision of all construction facilities including but not limited to water, power, utilities, yard lighting, sheds, roads, transport, handling and shifting, labour, materials, constructional plant, tools and tackles and all the temporary works required for successful completion of the Work. The Contractor shall be responsible for proper housekeeping and area cleaning of the Work to ensure safe working practices as well as deployment of watch and ward at his Work-Site.
- 6.2 The Contractor shall carry out and complete the Contract in every respect as per the directions of and to the satisfaction of the Purchaser/Engineer in accordance with the Contract. Further, during the course of the execution, the Purchaser/Engineer from time to time shall discuss and issue necessary instructions to the Contractor. The same shall include the following:
- 6.2.1 Revisions and modifications in the order of the delivery of the plant, machinery and equipment, materials, changes in the place of inspection or additions and modifications of the tests to be conducted.
- 6.2.2 Changes in the number of copies of the drawings to be submitted.

- 6.2.3 Any discrepancy in the drawings or between the schedule or quantities and/or drawings and/or specification.
 - 6.2.4 The removal from the Site of any materials brought thereon by the Contractor and the substitution of any other materials therefor.
 - 6.2.5 Pull down, removal or break-up and/or re-execution of any Works executed by the Contractor which are not in accordance to the Contract.
 - 6.2.6 The dismissal from the Works of any person employed thereupon.
 - 6.2.7 The opening up for inspection any Work covered up.
 - 6.2.8 The rectifying and making good of any defects.
 - 6.2.9 The inspection and carrying out of tests of materials, plant, machinery and equipment and finished Work on Site.
 - 6.2.10 Deducting and recovering any amounts, in respect of defective plant, materials, labour and finished work for which payments had been made, from any amounts due to the Contractor.
- 6.3 The Contractor shall forthwith comply with and duly execute any work comprising such Engineers' instructions, provided always that verbal directions and explanations given to the Contractor or his agents/representatives upon the work by the Engineer shall, if involving variation, be confirmed in writing by the Contractor within ten (10) working days and if not dissented by the Engineer in writing within a period of ten (10) working days from the date of receipt of such confirmation in writing, such instructions shall be deemed to be the Engineer's instructions within the scope of the Contract.
- 6.4 If work is transferred from the jurisdiction of the Purchaser to any successor, while the Contract is in subsistence, the Contract shall be binding on the Contractor and the successor in the same manner and take effect in all respects as if the Contractor and the successor were parties thereto from the inception and then corresponding office of the competent authority of the successor will exercise the same powers and enjoy the same authority as conferred to the Purchaser under the original Contract entered into and the engineer so appointed shall have the same powers as envisaged in the Contract.
- 6.5 **Contractors Responsibilities:**
- (i) The Contractor shall carryout scope of facilities as specified in the scope of Work hereof including design and engineering; civil engineering work, if agreed between the parties; dismantling, if any, of existing building, structures and equipment; modification / diversion, if any, of utility / services; fabrication and supply of steel structures; manufacture (including associated purchases and / or sub-contracting as per the terms and

conditions of the Contract) and supply of plant, machinery and equipment and refractories; inland transportation; intermediate storage; insurance as agreed herein and handling; erection work; testing; pre-commissioning; start up and commissioning and demonstration and establishment of performance guarantee parameters of the plant, machinery and equipment with due care and diligence in accordance with the Contract.

- (ii) The Contractor shall be deemed to have entered into this Contract on the basis of a proper examination of the data relating to the facilities (including any data as to boring tests) provided by the Purchaser, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site and of other data readily available in relation thereto prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and informed shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the facilities.

The Contractor shall satisfy himself regarding the accessibility to Site and existing roads, feasibility of taking materials / equipment to Site and availability of Labour and local conditions.

- (iii) The Contractor shall acquire permits, approvals and / or licenses that are necessary for the performance of the Contract. The necessary statutory fees for such permits, approvals and / or licenses are included in the Contract Price.
- (iv) The Contractor shall comply with Indian laws that may be applicable and that may come into force during currency of the Contract that binds upon the Contractor. The Contractor shall indemnify and hold harmless the Purchaser from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the contractor or its personnel, including the Sub-Contractors and their personnel.

6.6 The Contract shall be governed by the law for the time being in force in the Republic of India.

6.7 In case of demise or dissolution or bankruptcy or insolvency of the Contractor or if the Contractor causes or suffers any receiver to be appointed to his business or any assets thereof or compound with his creditors, or being a corporation commence to be wound up, not being a member's voluntary winding up for the purpose of amalgamation or reconstruction, or carry on its business under a receiver for the benefits of its creditors or any of them, the Purchaser shall be at liberty:

- (i) to terminate the Contract forthwith upon coming to know of the happening of any such event as aforesaid by notice in writing to the Contractor or to the receiver or liquidator or to any person in whom the Contract may become vested.

Or

- (ii) to give such receiver, liquidator or other person the option of carrying out the Contract subject to his providing a guarantee up to an amount to be agreed for the due and faithful performance of the Contract.

7.0 CONFLICT AND INTERPRETATION OF DOCUMENTS

- 7.1 In case conflicting statements or directive should occur among the contract documents, it shall be the responsibility of the Contractor to notify the Purchaser, with a copy sent concurrently to the Engineer, Immediately in writing and obtain instructions from the Purchaser to eliminate the conflict.
- 7.2 The Contractor shall notify the Purchaser, with a copy sent concurrently to the Engineer promptly of any discrepancies, omissions or doubts it may have, regarding drawings, specification or other documents. Noted or calculated dimensions shall always be followed. Drawings shall not be scaled without the authorization of the Purchaser or Engineer. Such discrepancies, omissions or doubts shall be eliminated upon instructions from the Purchaser based on discussions between the parties.

8.0 LANGUAGE

The Contract, all correspondence among the Purchaser, the Engineer and the Contractor and title and written notations on drawings shall be in the English language.

9.0 CORRESPONDENCE

- 9.1 All correspondence by the Contractor pertaining to financial, commercial and technical matters and as may be specifically requested by the Purchaser and/or the Engineer shall be addressed to the Purchaser. Copies of all correspondence pertaining to technical matters shall be sent concurrently to the Engineer. Similarly all correspondence by the Purchaser to the Contractor shall made to the following address
- 9.2 The Contractor designates the following foreign address:[●]
- 9.3 The Contractor designates the following address in India: [●]
- 9.4 The Purchaser designates the following address:
- Mishra Dhatu Nigam Limited,
(A Government of India Enterprise)
P.O. Kanchanbagh
Telangana-500058, India
- 9.5 The Engineer designates the following address:
- Mishra Dhatu Nigam Limited,
(A Government of India Enterprise)
P.O. Kanchanbagh
Telangana-500058, India

9.6 The Inspector designates the following address:

Mishra Dhatu Nigam Limited,
(A Government of India Enterprise)
P.O. Kanchanbagh
Telangana-500058, India

10.0 SIGNING OF THE CONTRACT

On the tender being accepted by the Purchaser, a Contract will be signed and executed by the Purchaser and the successful tenderer. All costs, charges and expenses of and incidental to the execution of the said agreement shall, in so far as they are incurred in India, be borne by the Purchaser, and those that are incurred in the Contractor's country shall be borne by the Contractor, provided however, if both parties incur expenses in India, they shall be borne equally between the parties.

11.0 SECURITY DEPOSIT

11.1 The Contractor shall be required to deposit, within 30 (thirty) days of signing of Contract, Security Deposit of 10% of the Contract Price in favour of the Purchaser in one of the following forms:

- a) Bank guarantee issued from State Bank of India or any Indian Scheduled bank payable at India.
- b) Bank guarantee issued by any foreign bank and payable at any Indian Scheduled Bank in India.
- c) Demand draft of any scheduled Bank.

The Bank guarantee from an Indian Scheduled Bank shall be countersigned by the State Bank of India whereby the State bank of India will undertake full responsibility to indemnify the Purchaser in case of default. This security deposit shall be in relation to the scope of work till the completion of installation and commissioning of the plant, machinery and equipment and issuance of PAC upon successful completion of the PG Test. The bank guarantee for the security deposit shall be returned to the Contractor as soon as the PG Test is successfully completed to the satisfaction of the Purchaser.

The Contractor shall be required to deposit on the date of the issuance of PAC, security deposit of 10% of the Contract Price for the guarantee period till the issuance of the FAC i.e. successful completion of the Defect Liability Period, in favour of the Purchaser in one of the following forms:

- a) Bank guarantee issued from State Bank of India or any Indian Scheduled bank payable at India.
- b) Bank guarantee issued by any foreign bank and payable at any Indian Scheduled Bank in India.
- c) Demand draft of any scheduled Bank.

The Bank guarantee from an Indian Scheduled Bank shall be countersigned by the State Bank of India whereby the State bank of India will undertake full responsibility to indemnify the Purchaser in case of default. The Bank Guarantee shall be returned to the Contractor as soon as the FAC is issued or, on the expiry of 12 (twelve) months from the date of issuance of PAC whichever is later.

- 11.2 The security deposit shall be for the due and faithful performance of the Contract and shall have to remain valid and binding notwithstanding such variations, alterations or extensions of time as may be made, given, conceded or agreed to between the Contractor and the Purchaser under these general conditions or otherwise.
- 11.3 The security deposit furnished by the Contractor will be subject to the terms and conditions of the Contract finally concluded between the parties and the Purchaser will not be liable for payment of any interest on the security deposit.
- 11.4 Should the extent or object of the Contract be altered during the execution of the Contract in such a way as to affect an increase or reduction of the Contract Price by more than 10% (ten per cent), then the security deposit shall be increased or reduced accordingly. The provisions of Clause 11.1 to Clause 11.3 above shall apply in such cases.
- 11.5 If the Contractor is a Consortium then the Bank Guarantee will be furnished by the lead member of the Consortium for the Contract Price and for the entire scope of Work and services to be performed. In the event of failure of any one consortium member, the Bank Guarantee given by the lead consortium member will be liable to be encashed. This provision is to enforce the joint and several liability agreed by the members of the Consortium.

12.0 GENERAL DIRECTION OF THE WORK

- 12.1 The Contractor shall obtain instructions for carrying out the Work pertaining to his Contract from the Purchaser or its authorized representative without causing any disruption in the performance of the Work.
- 12.2 The Contractor shall be under obligation to comply with written instructions given by the Purchaser or its authorized representative. In the event that the Contractor should consider that such an instruction is harmful to the Contractor's interests, he may object to the same in writing and the same shall be decided by the Purchaser or its authorized representative at its sole discretion; if within ten (10) working days from the receipt of the instruction the Contractor has not objected to it, he shall forfeit his right to do so at a later date.
- 12.3 The Contractor shall take care of the progress of the work through a qualified representative. Any instructions given to such representative shall be considered as having been issued directly to the Contractor.

13.0 REPRESENTATION, WARRANTIES AND REPLACEMENTS

- 13.1 The Contractor represents and warrants to the Purchaser that:
- 13.1.1 The design of all plant, machinery and equipment will be proven and of the latest and best type as developed by recent experience and that the plant, machinery and equipment shall be capable, under normal use, operation and maintenance, of accomplishing the purposes for which it is supplied as per Contract Specifications.
 - 13.1.2 The plant, machinery and equipment will comply with the Contract Specifications, drawings and other description furnished thereof by the Purchaser or the Contractor as the case may be as per the Contract.
 - 13.1.3 The materials, workmanship, fabrication of the plant, machinery and equipment will be of high quality in all details as per Contract Specifications and conforming to the latest relevant standards and as prevailing on the Base Date of the Contract where the same has not been specified.
 - 13.1.4 The plant, machinery and equipment supplied by the Contractor when erected, installed and commissioned at Site will constitute a complete and efficient functioning unit, capable of operation at the rate and capacity set forth, if any, in the Contract Specification.
 - 13.1.5 The plant, including any extras, will in all respects comply with the specification therefor, and the specifications for any such extras, and the representations and warranties set forth herein.
 - 13.1.6 The Contractor at the time of delivery to the Purchaser of the plant, machinery and equipment will own the same free and clear of all liens and encumbrances.
- 13.2 The Contractor shall, at his own expense, upon written demand by the Purchaser promptly repair or replace free to the Purchaser at Site any part comprising the plant machinery and equipment supplied by the Contractor, within a period of twelve (12) months from the date of the Provisional Acceptance Certificate issued upon successful completion of the PG Test:
- 13.2.1 Which may not comply with the specification thereof and the representations and warranties set forth herein; or
 - 13.2.2 Which may be of defective or incorrect design; or
 - 13.2.3 Which under normal and proper use and maintenance as per operation & maintenance manual proves deficient in performance or defective in workmanship or materials.
- 13.3 If the Contractor fails to so repair or replace the plant, machinery and equipment within reasonable time as may be determined by the Purchaser, the Purchaser may repair or replace the same at the Contractor's risk and expense without prejudice to any other rights which the Purchaser may have against the Contractor. Prior to taking remedial action, the Purchaser will give fifteen (15) days' notice to the Contractor to review the situation and advise steps to be

taken. Failure to reply in fifteen (15) days after the receipt of notice by Contractor shall constitute authority for the Purchaser to proceed with the repairs or replacements.

- 13.4 All repairs and replacements carried out by the Contractor to rectify defects shall be made in compliance with the Contract Specification and shall be made to the satisfaction of the Purchaser. The part of the plant, machinery and equipment which is so repaired or replaced shall be guaranteed for an additional year as shall any portion of the Work which might have been affected by such defect. The maximum guarantee for repaired or replaced part shall be twenty four (24) months from the date of commissioning.

The guarantee shall not cover:

- fast wearing parts & consumables, where the normal life expectancy is less than the guarantee period.
- Modifications / alterations performed by the Purchaser during guarantee period without the consent of the Contractor. However, the Purchaser is allowed to take action in case of exigency with intimation to the Contractor.

14.0 RESPONSIBILITY FOR PERFORMANCE OF CONTRACT

- 14.1 **General:** The Contractor is to be entirely responsible for the due performance of the Contract in all respects according to the intent and meaning of the drawings, specifications and all other documents referred herein. Any approval which the Purchaser/Inspector/Purchaser's authorised representative may have given in respect of the stores, materials or other particulars and the work or the workmanship involved in the Contract (whether with or without test carried out by the Contractor or the Purchaser) shall not bind the Purchaser, and notwithstanding any approval or acceptance given by the Purchaser/Inspector/Purchaser's authorized representative, it shall be lawful for the Purchaser to reject the materials on or after arrival at Site, if it is found that the materials supplied, erection, supervision/erection work carried out by the Contractor are not in conformity with the terms and conditions of the Contract in all respects.
- 14.2 **Contract:** The Contractor shall commence the Work as stipulated in the Contract and in default thereof, the Earnest Money Deposit and/or the Security Deposit amount furnished by the Contractor shall be forfeited and the acceptance of the Tender shall be considered as withdrawn at the cost of the Contractor. Moreover, the Contract will be terminated and the Contractor will be liable for debarring from participation in the Purchaser's tenders for a period of 2 (two) years.
- 14.3 **Responsibility for Completeness:** Any materials plant, machinery and equipment and services which may not be specifically mentioned in the Contract Specifications or drawings but which are necessary and essential for carrying out the Contract works under the Contract as detailed in the Contract Specification for achieving performance guarantees in accordance with the Contract Specification are to be provided for and rendered by the Contractor without extra charge, and the plant, machinery and equipment must be complete in all details, to ensure the specified and guaranteed performance.

14.4 **Co-operation with other Contractor:** The Contractor shall co-operate with the Purchaser's other contractors at all stage of the Work and exchange all relevant and necessary technical information with the Purchaser in relation to the effective and successful implementation of the Contract to avoid unnecessary duplication of Work and to achieve coordinated work during erection, Installation and commissioning. No remuneration shall be claimed from the Purchaser for such technical co-operation. If any of the Contractor's work depends for proper execution or results upon the works of any other Purchaser's contractor, the Contractor shall inspect and inform the Purchaser of any defects found in such works that render it unsuitable for such proper execution or results, for the Purchaser to take remedial action.

14.5 Neither party shall be liable to the other for any loss arising out of any other indirect or consequential damages that may be suffered by the other.

15.0 TYPE QUALITY OF MATERIALS AND WORKMANSHIP

15.1 The Contractor shall be deemed to have carefully examined and to have knowledge of the general and other conditions, specifications, schedules, drawings, etc. forming part of the Contract, and also to have satisfied himself as to the nature and character of the work to be executed and, where necessary, of the Site conditions and other relevant matters and details. Any information thus had or otherwise obtained from the Purchaser shall not in any way relieve the Contractor from his responsibility for civil works, if agreed to be undertaken herein, supplying the plant, machinery and equipment and executing the work in terms of the Contract, including all details and incidental works and supply of all accessories or apparatus not specifically mentioned in the Contract but necessary for ensuring complete Installation and efficient working of the plant and equipment as per the Contract Specification. If he shall have any doubt as to the meaning of any portion of the Contract, he shall, before signing it set forth the particulars thereof and submit them to the Purchaser in writing in order that such doubt may be removed.

15.2 The contract work shall be as specified in the Contract Specification and of the best quality and workmanship according to the latest engineering practice at the time of the award of the Contract and shall be manufactured from materials of the best quality or highest class for their purpose. They shall be designed, manufactured, supplied and, if required, erected and maintained until their acceptance in India, in accordance with their requirements in India.

15.3 The Contractor shall be deemed to be aware of the fact that the supplies and services under the Contract are required for the Project and he shall, therefore, make provisions for his supplies and/or services to be so adjusted that they fit in to the Purchaser's general scheme in respect of the Project or expansion thereof and will not interfere with the interaction of the combined operation. The Contractor shall make necessary references and inquiries at appropriate stages.

15.4 The Contractor shall procure and/or fabricate all materials and equipment, and shall undertake the erection and Installation as provided in the Contract, in accordance with all requirements of Central and State enactments, rules and regulations governing such work as prevailing on the Base Date of the Contract and as may be amended from time to time and codes and standards listed in the contract documents and normal considerations of quality and good workmanship. This shall not be construed as relieving the Contractor from complying with any requirements of

the drawings and contract specifications which may be more rigid than, but not contrary to, the above mentioned rules nor from providing such constructions as may be required by the above mentioned rules and regulations, even though it may not be shown on the drawings or in the specifications. In case of variance of the drawings and/or contract specifications from the laws, ordinances, rules and regulations governing the work, the Contractor shall immediately notify the Purchaser. It is the sole responsibility of the Contractor, however to determine that such variance exists. Additional costs, if any, due to such revision and / or variation in the rules, regulations and enactment of Governmental Authorities governing such supplies, codes and standard from that existing arising after the Base Date of the Contract shall be mutually discussed and agreed upon. Wherever required by regulations, the Contractor shall also obtain relevant statutory authorities approval (e.g. the Boiler Inspector's, Factory Inspector, etc.) for the plant, machinery and equipment supplied by the Contractor. The Purchaser to the extent possible shall provide the reasonable support to the Contractor for obtaining such approval.

- 15.5 Codes and standards referred to in the Contract documents shall be followed. Necessary codes and standards of suitable Indian or International standard can be followed, with the prior Approval of the Purchaser, provided materials and equipment according to these standards are equal to, or better than the corresponding standards specified in the Contract. In the absence of codes & standards of any item in the contract, codes and standards of suitable Indian or International standard can be followed.
- 15.6 In general, the materials and workmanship shall meet the requirements of standards and specifications in the contract documents. In any case materials shall be of best grade and quality and most suitable for the purpose intended, in accordance with modern practice and as per the Contract Specification. All materials shall be new. Substitutions for specified materials or variations from designed processes or methods of fabrication will be permitted only if approved by the Purchaser. Such approval may be granted only if a compelling reason exists for making a substitution. Before any defect in materials or workmanship is repaired, the Contractor shall outline the procedure proposed for rectification of the defect and obtain Approval of the Purchaser.
- 15.7 All meters, gauges, recorders and other types of indicating, integrating or recording devices shall be calibrated in the metric system and degrees Celsius. Where Vernier attachments are related to the English system, gearing must be changed to produce results on a true decimal (Metric) basis. Functional and instruction plates shall be in the English language.
- 15.8 Brand name mentioned in the Contract documents is for the purpose of establishing the type and quality of products to be used. Competitive products of equal or better quality and function may be substituted, if approved by the Purchaser. All such products and equipments shall be used or installed in strict accordance with the manufacturer's instructions / recommendations.

As far as practicable, manufactured materials and equipment shall be delivered to the Site of the Work or the place of destination as the case may be as may be applicable, in the original shipping containers or packing boxes bearing the manufacturer's names and brands. The Contractor shall provide the Purchaser with copies of all manufacturer's instructions for all products used in the work.

16.0 COMMISSIONING AND OPERATIONAL SPARES, SPECIAL MAINTENANCE TOOLS AND CONSUMABLES

16.1 Commissioning Spares:

The Contractor shall supply with the plant, machinery and equipment, sufficient quantity of commissioning spares required for Installation, start-up and commissioning of the plant, machinery and equipment and for its efficient operation and Provisional Acceptance upon PG Test. These items shall be based on the Contractor's experience in commissioning similar plant and shall be available at Site along with the plant, machinery and equipment. The Contractor shall be responsible for having the required items at Site in sufficient quantities before the commencement of the start-up operation and commissioning. The prices of the same shall be included in the supply price of the plant, machinery and equipment. The list of commissioning spares included, with quantities, shall be indicated in the offer. If the quantities supplied are found to be inadequate, further quantity as may be required shall be supplied without any extra cost and without affecting the Work and in relation thereto if any taxes or duties are leviable the same shall be borne by the Contractor. Commissioning spares shall be the property of the Purchaser even if the same is not used in the commissioning. Left out spares, if any, after the Provisional Acceptance upon successful completion of the PG Test, out of those indicated in the list, shall be handed over to the Purchaser.

16.2 Maintenance Spares:

16.2.1 The Contractor shall submit with the tender an itemized list showing the unit cost and recommended number of spare parts for the first two (2) years of operation. The Contractor shall also submit drawings as required under Clause 17.6.1.7 of the General Conditions of Contract within six(6) months from the date of the award of the Contract or one half of the delivery period, whichever is earlier, to enable the Purchaser to scrutinize the spare parts list.

16.2.2 The Contractor shall also undertake that supplies of necessary spare parts will be made available at any time later at least during the life of the plant, machinery and equipment at reasonable price.

16.2.3 Spare parts not manufactured directly by the Contractor shall be properly identified and description/catalogues, etc. given in sufficient detail to enable the Purchaser to procure these directly from the manufacturers, if he so desires.

16.3 Special Maintenance Tools

The Contractor shall submit with the tender an itemized list of special maintenance tools and supply special maintenance tools required for the operation and maintenance of the plant, machinery and equipment supplied by him. The Contractor shall also undertake that supplies of necessary maintenance tools will be made available at any time later during the life of the plant, machinery and equipment at reasonable prices.

16.4 Consumables

The Contractor shall inform the Purchaser of the specifications including equivalent brand names and quantities of all consumable materials, such as lubricants, flushing oil, hydraulic fluids, chemicals, lumber, paper, etc. required during the start-up, commissioning, initial filling and yearly requirement for normal operation. Binding information on these shall be furnished to the Purchaser sufficiently in advance of the start-up and commissioning date of any equipment to plan procurement of these materials in time to meet all needs, but not later than six (6) months after the award of the Contract. Should the Contractor feel necessary to modify any of the data furnished by him, this should in any case be furnished at least six (6) months before the start-up and commissioning of the plant, machinery and equipment. The Purchaser shall ask the Contractor to supply such materials as set out in the Technical Specification required for start-up, commissioning, initial filling and performance test and the Contractor shall supply the same.

17.0 CONTRACT DRAWINGS, DOCUMENTS AND MANUALS

17.1 Scope

- 17.1.1 In as much as the Contractor is required to supply drawings, documents and manuals, he shall furnish the same free of charge to the Purchaser as part of the Contract. These shall include but not restricted to, design drawings, details and construction drawings, specifications bills of materials, manuals etc. unless otherwise defined in the Contract.
- 17.1.2 The Contractor shall be responsible and liable for any discrepancies, errors, or omissions in the drawings and other particulars supplied by him, whether such drawings and particulars have been approved by the Purchaser or not, provided that such discrepancies, errors or omissions are not due to incorrect information or particulars furnished in writing to the Contractor by the Purchaser or the Engineer unless the Contractor as designer and manufacturer of such equipment could have known or discovered the said discrepancies, errors and omissions. The Contractor shall pay for any extra cost incurred by the Purchaser due to any alterations necessitated by reasons of any discrepancy, error or omission in the drawings and particulars supplied by the Contractor.
- 17.1.3 The Contract Specifications and drawing shall be coordinated by the Contractor in such a manner that any work shown in the drawings, and not specified in the Contract, or specified in the Contract and not shown on the drawings is to be done without extra charge; unless such work is specifically exempted, it is to be executed in accordance with the Contract and in the same manner as if fully specified and shown in detail.
- 17.1.4 Drawings furnished by the Contractor shall be certified as correct for use and shall bear the signature of an authorized person of the Contractor.
- 17.1.5 Drawings, documents, manuals, spare parts list, audio visual training tutor in e-form for the benefit of operational and maintenance personal etc. shall be supplied in neat bound volumes and one soft format. All reproducible CAD format or linen/polythene films

transparencies shall be sent in mailing tubes and CDs or any other electronic form as mutually agreed upon. The quality of reproducible linen/polythene films/CDs to be used for supply of reproducible prints will have to be approved by the Purchaser. The drawings, documents etc. shall be mailed to the address of the Purchaser and the Contractor will be informed of these in time by the Purchaser.

17.2 Drawing Format

- 17.2.1 All drawings shall be dimensioned in the Metric System. Where drawings are usually made in the English (or other) systems, they shall also have Metric System dimensions in parenthesis or below the dimensions line. Titles and written notations shall be in English. While preparing the drawings, the drafting standards adopted such that good, clean and legible e-form of the drawings can be obtained. Drawings prepared by the Contractor shall be suitable for transmitting electronically and digitization for preservation.
- 17.2.2 All drawings prepared by the Contractor shall be of a reasonable scale and size of drawings and as per the Indian/ International standard and Contract Specifications. While preparing the drawings, the drafting standards adopted shall be such that good clean and legible e-form of the drawings can be obtained. Drawings prepared by the Contractor shall be suitable for transmitting electronically and digitization for preservation. In general, it is desired to keep all drawings the same size for ease of filing and reference. All design drawings shall be oriented to match the plant, machinery and equipment arrangement drawings and shall have a key plan identifying the plant area to which they apply. All drawings shall be made with the north arrow pointing to the top of the sheet or to the left. There shall be sufficient reference notes on the drawings to permit identification of all the drawings which are required for a proper understanding. Drawings and bills of materials shall show take-off quantities of all materials required for the work.
- 17.2.3 Bills of materials and drawings shall be cross referenced for easy identification. Altering on drawings shall be sufficiently large to be clearly legible.
- 17.2.4 The Contractor's standard drawings used on his contract shall have information pertaining to the specific item under consideration properly identified to distinguish it from information pertaining to other items which may be contained on the same drawing.
- 17.2.5 When a drawing is revised by the Contractor, every change made shall be identified on the drawing by circling the changes made and placing the revision number in a small triangle so as to be easily recognizable. When a subsequent revision is made, the circles made for the previous revision shall be erased and the current changes circled. However all revision numbers in the small triangle shall be retained. In addition a record of revisions, along with the co-ordinates showing the location of revisions shall be indicated at the left hand bottom corner of the drawings as per standard practice. In case of revisions of a drawing, for which a different number is allotted, the new drawings shall clearly indicate the number of the drawing which it supersedes.

17.2.6 All drawings/prints shall bear a stamp/indication at a prominent place indicating whether the drawings are preliminary, for approval or certified as final.

17.2.7 The Contractor shall prepare and furnish drawings exclusively against the Contract. Even standard drawings of the Contractor shall bear a reference in the drawings to the present Contract only. References pertaining to other contracts entered into with other parties shall not appear in the drawings submitted to the Purchaser.

17.3 Numbering System

Identification number or symbols that the Contractor elects to use for his own purpose are permissible. Bills of materials must be such that the Purchaser will be able to identify and purchase any needed replacement and spares. The method of numbering drawings specifications and bills of materials used by the Contractor shall be submitted to the Purchaser to enable the Purchaser to plan its archives. The above information shall be submitted along with the drawings submission schedule within three (3) months of the award of the Contract.

17.4 Working documents and drawings list with schedule

17.4.1 Drawings list and schedule

Within one (1) month of the award of the contract, the Contractor shall supply to the Purchaser five (5) copies of a complete list of all drawings by the title which the Contractor expects to supply against the contract, together with a detailed schedule for the submission of the drawing. The detailed schedule shall take into account the schedule for submission of the different types of drawings as outlined in Clause 17.14 and shall be in conformity with the overall time schedule established by the contractor in his tender, with subsequent modification if any, which has been made part of the contract.

17.4.2 General arrangement and layout drawings

17.4.2.1 Within one (1) month of the award of the Contract, the Contractor shall submit general arrangement and layout drawings including cross-sections for approval prior to the commencement of detailing and manufacture. In the layout drawings, the scope of supply of the Contractor shall be indicated in darker outlines to distinguish them from these items not in the Contractor's scope. The general arrangement and layout drawings referred to herein shall include the following:-

- (i) For plant, machinery and equipment this category shall include equipment outline and overall dimensions locations of equipment centerlines and working point elevations, functional and clearance requirements and important clearance dimensions. The particulars of refractory and other lining work. If any, and of all auxiliaries shall also be included.

- (ii) For piping, this category shall include the flow diagram of all utilities and process fluids showing flow quantities, temperatures and pressures, all pumps, valves and instrumentation. The general arrangement and layout drawings for piping and duct work shall include physical location of equipment and general pipeline/duct routings to avoid equipment and electrical interferences and to make units requiring servicing and maintenance accessible. Both the flow sheets and pipe/duct routings drawings shall show inter-connecting pipelines ducts, and terminal points of the contractor's piping/ducting. This category shall also include diagrams of hydraulic, pneumatic, lubricating, ventilation and air conditioning systems. Where necessary, the Contractor shall also give diagrams and drawings showing waste disposal system.
- (iii) For electrical, this category shall include layout drawings showing locations of all electrical equipment including motors, controls, limit, switches, solenoid valves, etc. motor list, list of electromagnetic valves, single line, inter-locking and sequence diagrams with instruction diagrams for control signaling and communication systems, location of devices on switch-gear, control panels, desks etc. including sectional views. The details furnished shall include complete cabling drawings giving, details of power and control cables, and terminal detail layout of trenches and cable racks/tunnels, conduits etc.
- (iv) For instrumentation, this category shall include the control scheme and instrumentation flow diagrams and general arrangement drawings of instrument and control panels.
- (v) Drawings for approval of the statutory authorities such as Indian Boiler Inspectorate, Inspectorate of Explosives, Electrical Inspectorate, Factory Inspectorate, environmental clearances and from other statutory and regulatory bodies, etc., as may be required under the applicable laws with reasonable assistance from Purchaser as may be deemed necessary.

17.4.2.2 The details furnished shall include necessary calculations and data required for demonstrating that all part of the plant, machinery and equipment to be furnished shall conform to the provisions of the Contract.

17.5 Foundation outline drawings and load data:

Certified foundation outline drawings including dimensional anchor/foundations Bolt location plan and loading drawings for all foundations and structures together with details drawings giving the size and specification of all foundation/anchor Bolts, sleeves, inserts, supports and other materials which have to be embedded in concrete. These drawings/data shall be furnished within three (3) months of the award of the contract or one-fourth of the delivery period, whichever is earlier.

17.6 Equipment details and other drawings and documents

17.6.1 The Contractor shall submit within the time limits indicated in Clause 17.14.3 detailed drawings, covering such drawings, bills of materials or other documents required for the manufacture, fabrication or supply of parts, site installation of piping and ductwork, Site installation of cabling, wiring, buswork, both overhead and underground, conduct, cable trays and supports, and for all refractory work as well as any other lining work. The detailed drawings shall include, but not be limited to, the following:

17.6.1.1 Dimension drawings showing dimensions required for the location of each individual equipment including, where necessary, its auxiliaries and control panels being supplied under the Contract, the method and size of the connections to the Purchaser's other equipment within three (3) months of the award of the contract or one-fourth of the delivery period whichever is earlier.

17.6.1.2 Assembly, sub-assembly and sectional drawings, as well as detailed drawings showing details of components, required for assembly before three (3) months prior to the first shipment or three-fourth of the delivery period, whichever is earlier. These shall be suitably cross referred to other drawings as required. The drawings shall be sufficiently detailed such that, if the purchaser so desires, it can procure spares and replacements from any competent manufacturer in India or abroad. Details of mechanical equipment shall include grades of finish, heat treatment, clearances (tolerances,) etc. and for electrical equipment these shall include, for example coil dimensions, size and section of conductors, type and size of insulation, process of impregnation etc.

17.6.1.3 Performance data, including graphs, efficiency and characteristic curves and other pertinent information of the individual/composite items of plant, machinery and equipment, within three (3) months of the award of the Contract or one-fourth of the delivery period which is earlier.

17.6.1.4 Drawing for the approval of statutory authorities, such as the Indian Boiler Inspectorate, Inspectorate of Explosives, etc. at least six (6) months prior to the first shipment.

17.6.1.5 Schematic drawings and inter-connecting wiring diagrams, showing, points where connections have to be made by the Purchaser, within three (3) months of the award of the contract or one-fourth of the delivery period, whichever is earlier.

17.6.1.6 Drawings showing refractory work and lining, with details of types and grades of refractories, size and shapes of bricks, complete bills of materials for all refractories, specifications including chemical and physical properties of all types of refractory materials, before six (6) months prior to the first shipment or three-fourth of the delivery period, whichever is earlier.

17.6.1.7 The manufacturing drawings required for the items in spare parts quotations to assess the requirements of spare parts before the placement of orders for spare parts and drawings of wearing parts showing materials of all components which require replacements due to wear in normal operation. A list of wearing parts, such as bearings, retainers, gaskets, Bolts chains etc., shall be furnished showing quantities furnished and installed, dimensions, materials used and expected useful life. The information furnished shall include complete specifications for

all wearing parts including grades of finish, heat treatment, tolerances etc. Further, drawings of components of proprietary items of the Contractor and his Sub-Contractor which can be manufactured by general engineering practice shall be furnished. If required, the Purchaser will give an undertaking that such items of proprietary nature will not be used for commercial purposes but will be exclusively used only for the maintenance purposes of the plant, machinery and equipment. All these drawings/information shall be supplied within six (6) months of the award of the Contract or one half of the delivery period, whichever is earlier.

17.6.1.8 Other drawings, specifications and data including those not described above but required by other agencies to perform their work/engineering. These shall be furnished during the execution of the Contract.

17.7 Bills of Materials:

Bills of materials shall be submitted along with the drawings to which they pertain and shall include listing of materials being supplied showing piece mark, description and reference drawing numbers. Packing lists described in the marking and shipping instructions covered in these general conditions must have the same identifications as shown on the applicable bills of materials.

17.8 Assembly and Erection Instructions and Drawings

17.8.1 The Contractor shall furnish Four (4) copies of the following:

17.8.1.1 Descriptive literature and drawings to illustrate the working principles, method of assembles and dismantling.

17.8.1.2 Instruction books for proper erection, assembly of all equipment and necessary instruction for checking and recording proper assembly of the plant.

17.8.1.3 Instruction sheets for proper balancing, alignment, checking and calibration as may be necessary.

17.8.1.4 Erection drawings showing all details and particulars, in sequence, required for the erection and installation of the plant. In addition, the contractor's recommended time schedule and a chart showing the sequence of erection for the erection of equipment may also be furnished.

17.9 The documents, drawings, etc. referred to in Clause 17.8 shall be submitted in the time so as to be available at Site prior to the shipment of plant, machinery and equipment, but in any case at least three (3) months before the first shipment of plant, machinery and equipment or three-fourth of the delivery period, whichever is earlier.

17.10 Final Drawings

17.10.1 Along with the supply of the plant, machinery and equipment, sufficient set of prints shall be furnished for the original drawings, specifications, bills of materials, calculation sheets etc. made by the Contractor. These shall include but not restricted to the following:

- (i). General arrangement, assembly, sub assembly and section drawings as well as detailed drawing showing details of components required for assembly with bills of materials and schedule of parts of each complete plant, machinery and equipment giving part numbers with reference to the assembly drawings and the total number of each part. These drawings shall be suitably cross referred to other drawing as may be required. The drawings shall be sufficiently detailed such that, if the Purchaser so desires, he can procure the spares and replacement from any competent supplier/manufacturer in India or abroad.
- (ii). Performance data including graphs, efficiency and characteristic curves and other pertinent information of the individual/composite items of the plant, machinery and equipment as may be applicable.
- (iii). Operation manual of the plant, machinery and equipment.
- (iv). Maintenance manual covering all phases of both preventive and repair maintenance giving clear instructions regarding expected faults, method of detection and elimination, lubrication charts etc.
- (v). Flow diagrams and layouts of instrumentation, hydraulic, pneumatic, lubrication systems and utilities with all necessary dimensions and specifications.
- (vi). Complete electrical, schematic and erection and inter connecting wiring diagrams for power distribution, control and instrumentation and logic circuits for the plant, machinery and equipment.
- (vii). The Contractor shall supply the complete list of commissioning spares. In addition, the Contractor shall supply spares list giving complete list of replaceable parts for two (2) years normal operation indicating clearly operational, consumable, maintenance, replacement spares etc. In the maintenance spares the fast wearing spares shall be clearly identified. The spare parts list shall include necessary catalogues and manufacturing drawings and shall be supplied in the form of a table giving item designations and application, name of the manufacturer, manufacturer's specifications, type and form, reference drawing number, standards used, quantity installed and recommended for two (2) years normal operation, expected useful life, unit cost and in addition for electrical equipment the item designation shall show the entire module to be replaced in case of defect in any component. Detailed instructions both for original installation and future replacements shall be furnished.
- (viii). Manufacturing drawings for fast wearing parts which require replacements due to wear and tear in the normal operation. The information furnished shall include

complete specifications giving materials of construction, heat treatment, grade of finish, tolerance etc. for mechanical items and coil/cable dimensions, size and section of conductors, type and size of insulation etc. for electrical items.

17.10.2 The Contractor shall submit all stability certificate duly signed as required under the Factories Act, 1948 and amendments thereof etc. for the new building and structures under their scope.

17.10.3 Further drawing and specifications, datae not mentioned herein above specifically but required by the Purchaser in connection with the Contract and possible alterations shall also be supplied by the Contractor as and when required.

17.10.4 All drawings, specifications, materials and designs, if any, furnished by the Purchaser or his authorized representatives shall be treated as confidential and shall be the property of the Purchaser and shall be returned to the Purchaser upon completion of the work or upon termination of the Contract. No copies or duplications thereof shall be retained by the Contractor without the prior consent of the Purchaser. All drawing, specifications or manuals furnished by or through the Contractor shall be fully owned by the Purchaser who is entitled to use them for all purposes of execution of the Contract and operation and maintenance of the Plant being subject to the Contract. However, the registered intellectual property right for the drawings and documents as stated above furnished by or through the Contractor shall remain with the Contractor.

17.11 Spares List, Maintenance and Operational Manuals

17.11.1 The Contractor shall supply Four (4) sets of spare parts list giving the complete list of all parts required as commissioning spares, which shall be supplied along with the equipment in addition, the Contractor shall supply spares list giving complete list of replaceable parts for two years, normal operation, indicating clearly operational, consumable, maintenance replacements spares, etc. In the maintenance spares, fast wearing and insurance spares shall be clearly identified. The spare parts list shall include necessary catalogues and manufacturing drawings and shall be supplied in the form of a table giving items designation and application, name of manufacturer, manufacturer's specification., type and form, reference drawing number, standard used, quantity installed, quantity recommended for two years normal operation, unit price and in addition for electrical equipment the item designation shall show the entire module to be replaced in case of defect in any component. Detailed instructions both for original installation and future replacements shall be furnished.

17.11.2 Four (4) copies of maintenance manuals covering all phases of both preventive and repair maintenance shall be supplied, including lubricating charts, showing every point requiring lubrication, grade of lubricant, schedule for lubrication, and, where required, the correct amount and grade of oil or grease necessary for refill after drainage.

17.11.3 Four (4) copies of operating instructions shall be provided, including all details necessary to ensure proper procedure and sequence of operation.

17.11.4 The documents, drawings, etc. referred to in this Clause shall be submitted at least three (3) months prior to the first shipment of equipment by the Contractor or three-fourth of the delivery period, whichever is earlier.

17.11.5 All manuals, documents, spare parts, lists etc. shall be supplied in neat bound volumes in indicated copies along with one soft copy.

17.12 Approval of drawings

17.12.1 The Contractor shall submit such drawings, specification and bills of materials as the Purchaser or Engineer may require in accordance with the time schedule which is part of the Contract or any other reasonable schedule which the Purchaser or Engineer may require. The Contractor shall submit such drawings and documents singly or in small batches as fast as they are available for shipment so as to prevent large accumulations of work from delaying approval procedures.

17.12.2 Approval of the Contractor's drawings, specifications and bills of materials will be mailed within four (4) weeks of the receipt of drawings etc. In case, a delay is anticipated, the Contractor will be notified.

17.12.3 Approval of the Contractor's drawings, specifications and bill of materials means that these will be checked for conformity with applicable specification and general conformity with the engineering requirements for the area covered in the Contract. It is understood that approval by the Purchaser does not include checking for drafting and other errors, but only review of basic concepts and general principles involved.

17.12.4 The Contractor shall make any changes in the design, with the prior Approval of the Purchaser, which are necessary to make the equipment conform to the provisions and intents of the Contract without additional cost to the Purchaser. The Purchaser's approval of the Contractor's drawings, specifications and bills of materials shall not relieve the Contractor of responsibility to comply with the intent of the Contract. Fabrication or Procurement without approved drawings or prior to approval of drawings shall be at the Contractor's risk.

17.12.5 When the Contractor has a drawing ready for approval, he shall send two (2) prints to the Purchaser and two (2) paper re-producibles to the Engineer. The paper reproducible shall be of a quality approved by the Purchaser. If the drawing is "Not approved" or "Approved as noted" one marked up print with appropriate comments will be returned to the Contractor for correction and re-submission. The Contractor shall resubmit the final drawings incorporating all the changes within two (2) weeks after the receipt of the drawings with the Purchaser's comments. The final drawings shall be re-submitted in three (3) paper re-producibles and two (2) prints to the Engineer and Purchaser as above. One (1) print of final approved drawing will be furnished to the Contractor.

17.12.6 Upon approval by the Purchaser, the drawings shall become Contract drawings and thereafter the Contractor shall not depart from them in any way whatsoever except with the written permission of the Purchaser.

17.12.7 All drawings and documents shall be sent by first class air mail. In case, these are sent by air freight, all expenses incurred by the Purchaser and Engineer for customs, handling and forwarding shall be payable by the Contractor. All reproducibles / linen transparencies shall be sent in mailing tubes.

17.13 Drawings/ Documents at delivery of Equipment

17.13.1 With the delivery of equipment, the Contractor shall submit three (3) sets of all test certificates.

17.13.2 In addition one (1) set of drawings and documents, covered under Clause 17.11 shall be supplied along with the first shipment of plant, machinery and equipment.

17.14 Drawings and Documents at Completion of Work:

17.14.1 At the completion of PG Test and issuance of the PAC, the Contractor shall supply for all items being supplied by him and his sub- contractors one (1) reproducible on CAD format on CD along with five (5) prints of each original drawings, specification, bills of materials, calculation sheets, etc. made by the Contractor and his Sub-Contractors, incorporating all changes made during the execution of the work, including those made at site during erection, assembly and start-up, indicating the authorities who made the changes.

In addition three (3) sets of schedule of parts of each complete equipment, giving part numbers with reference to assembly drawings and the total number of each part, as shall be furnished.

17.14.2 Until such time as the supply of drawings, documents and information required as per Clause 17 is completed, the Purchaser will not finally accept the plant as supplied by the Contractor.

17.14.3 The Contractor shall submit the various drawings and documents covered in this Clause as per the following tentative schedule:

Clause No.	Brief description of type of drawings/documents	Time of submission
17.3	Details of numbering system	Within three (3) weeks of award of Contract.
17.4.1	Drawing list and schedule.	Within one (1) month of award of Contract.
17.4.2	General arrangement and layout drawings	Within one (1) month of award of Contract.
17.5	Certified foundation outline	Within three (3) months of the award of

Clause No.	Brief description of type of drawings/documents	Time of submission
	drawings, data, etc.	Contract or one fourth of the delivery period, whichever is earlier.
17.6.1.3	Performance data, etc.	Within three (3) months of the award of Contract or one fourth of the delivery period, whichever is earlier.
17.6.1.1	Dimension drawings.	Within three (3) months of the award of Contract or one fourth of the delivery period, whichever is earlier.
17.6.1.5	Schematic drawings, etc.	Within three (3) months of the award of Contract or one fourth of the delivery period, whichever is earlier.
17.6.1.7	Wearing parts drawings, spare parts drawings, drawing of components of proprietary items	Within six (6) months of the award of Contract or one half of the delivery period, whichever is earlier.
17.6.1.4	Drawings for approval of statutory authorities.	Six (6) months prior to first shipment of equipment.
17.6.1.6	Drawings and documents for refractory and lining work.	Six (6) months prior to first shipment of equipment or three-fourth of delivery period, whichever is earlier.
17.6.1.2	Detailed drawings for assembly, sub-assembly, components etc.	Three (3) months prior to first shipment of equipment or three-fourth of delivery period whichever is earlier.
17.8 and 17.9	Assembly and erection instructions and drawings.	Three (3) months prior to first shipment of equipment or three-fourth of delivery period whichever is earlier.
17.11	Spare parts, maintenance and operational manuals.	Three (3) months prior to first shipment of equipment or three-fourth of delivery period whichever is earlier.
17.13	Test Certificates.	With first shipment of equipment delivery.
17.14.1	Completion drawings and documents.	At the time of issue of provisional acceptance Certificate.

18.0 CONTRACT PRICE

The contract price will include the aggregate of the price for imported plant, machinery and equipment, foreign services (including design and drawings, training) and all indigenous supplies and services (including indigenous design and drawings, if any), including Installation and Erection, Commissioning, PG test and the price towards all the obligations agreed to be performed which are covered in the scope of Work and elsewhere in the Contract. The contract price will exclude the Indian taxes, duties, levies, etc. for imported equipment and services but will include all Indian taxes, duties, levies, etc. on indigenous supplies and services. Delivery of all imported drawings and documents is on DDP (delivery duty paid) basis as per INCOTERMS at ex-site and the delivery of indigenous Drawings and Documents shall be at Purchaser's office.

The Contractor's prices for materials to be supplied under the Contract shall include charges for packing of a kind and quality suitable for shipment overseas and tropical conditions for imported equipment and as customary for indigenous equipment for delivery in good condition.

19.0 ASSIGNING OF CLAIMS AND INTEREST IN THE CONTRACT

The Contractor shall not assign his claim or interest in the Contract without the written permission of the Purchaser which shall not be unreasonably withheld. However, if it is mandatorily and statutorily required as per the applicable laws of the Contractor/s home country, the Contractor's request to assign/or subrogation, as the case may be, its rights and obligations under the Contract to a Credit Insurance company or to its parent company may be considered by the Purchaser after it is satisfied about the real need thereof, on such terms and conditions as the Purchaser thinks due and proper, provided however that the assignee / subrogee agrees to perform the Contract signed by the Contractor mutatis-mutandis

20.0 INSPECTION AND TESTS DURING MANUFACTURE

- 20.1 The Purchaser or his authorized representative shall have the right of inspecting and testing the Contract work or any part thereof at any time during the manufacture as per approved Quality Assurance Plan (QAP) and the Contractor on demand from the Purchaser shall carry out such tests in an appropriate manner in the presence of and free of charge to the Purchaser. Should the Contractor, himself not be in a position to carry out the tests, he shall, on the Purchaser's demand, prepare specimens or samples and send them at his own cost, to such testing stations as the Purchaser may specify and the cost for the tests so effected shall be to the Contractor's account. Should a part of the plant, machinery and equipment be manufactured not on the Contractor's own premises but on other premises, the Contractor shall likewise obtain permission for the Purchaser to inspect and test the work as if the said plant were being manufactured on the Contractor's premises. The inspection, examination or testing carried out at the presence of the Purchaser shall not release the Contractor from any of the obligations and responsibilities under the Contract.
- 20.2 The inspection and tests shall be so conducted as not unreasonably to impede the progress of manufacture.
- 20.3 The Purchaser shall have the right to be present at all tests carried out by the Contractor. The Contractor, on being requested so to act, shall present sufficient documentary evidence as per the approved QAP that the materials used will meet the requirements of good engineering practice. With respect of materials used for the construction of the plant and equipment, such as, structural steel, mild steel, cast iron, cast steel, etc., the Contractor shall produce the requisite test certificates along with specimen and test pieces on which tests were carried out by the manufacturer, at the time of examination as per the QAP. With respect to large castings or forgings, the Contractor shall arrange for the necessary X-Ray and ultrasonic tests to be carried out at his own cost if called for, the samples and specimens shall become the Purchaser's property. The Contractor shall notify the Purchaser in an appropriate manner as to the Contract work particularly before any assembly in order that the Inspections or tests can be carried out as

may be required to ascertain, without prejudice to the Contractor's liability, whether the materials and/or services are in conformity with the requirements of the Contract.

- 20.4 The Purchaser shall, on giving reasonable notice in writing to the Contractor setting out any grounds of objections which he may have in respect of the work, be at liberty to reject all or any plant or workmanship on the basis of any grounds of objection, which are not in accordance with the Contract or do not fulfill the requirements of the Contract.
- 20.5 Within four (4) weeks of the award of the Contract, the Contractor shall communicate to the Purchaser details of the tests to be conducted and obtain his approval for the same. Approval for the above will be generally given by the Purchaser within four (4) weeks of the receipt of the information.

The Contractor shall also furnish a list of various components, sub-assemblies and assemblies which the Contractor proposes to put up against the plant, machinery and equipment for inspection. The Purchaser has a right to make modifications in this list to ensure that the minimum amount of assembly work is done at Site.

The Contractor shall give the Purchaser a minimum of three (3) weeks' notice of any material being ready for testing, specifying the period likely to be required for such testing, and the Purchaser or his said representative shall, (unless the inspection or test is voluntarily waived), on giving 24 (twenty four) hours previous notice in writing to the Contractor, attend at the Contractor's or Sub-Contractor's premises (as the case may be) and complete the testing as soon as possible in a period, normally of not more than eight (8) days, from the date on which the material is notified as being ready for testing or inspection, failing which visit the Contractor may proceed with the tests which shall be deemed to have been made in the Purchaser's presence and shall forthwith forward to the Purchaser duly certified copies of the test reports. In cases where the Purchaser is requested to carry out inspection when in fact the equipment is not ready for testing, the cost of such visits, including incidental expenses, shall be to the Contractor's account.

- 20.6 The Contractor shall be responsible to perform or to have performed by others any and all tests and inspections requested by the Purchaser or his authorized representative as part of his duties under the Contract. The Contractor shall inspect the work for which he is responsible to ensure proper performance. To this end, he shall prepare and submit all pre-inspection forms, releases, post-inspection reports, test reports and such other documentation in such details and at such interval as the Purchaser or his authorised representative may request.
- 20.7 If the Purchaser has reasons to suspect the existence of hidden defects due to faulty materials and workmanship, he will have the right to order the removal and rebuilding of the doubtful parts of the work or of carrying out additional tests as required. The costs involved in such operation shall be to the account of the Contractor if the existence of such defect is proved; otherwise the costs involved shall be to the account of the Purchaser.
- 20.8 Failure on the part of the Inspector to inspect or to reject after inspection, Work which later proves to be defective, shall not relieve the Contractor from warranties, commitments and

obligations which he undertakes under this Contract. The Contractor is solely responsible for the accuracy, quality and completeness of his work and supply.

- 20.9 On the completion of shop fabrication, the Contractor shall assemble in his shop all fabricated and procured parts in to sub-assemblies and complete assemblies as stated in Clause 20.5 to ensure proper field erection or as directed by the Purchaser. All parts shall be match-marked by the Contractor to facilitate reassembly at site.
- 20.10 In all cases whether at the premises or work of the Contractor or of any sub-contractor, the Contractor, except where otherwise specified, shall provide, free of charge to the Purchaser, such labour, materials, electricity, fuel, water stores, apparatus, instruments, shop drawings and performance data, including graphs, efficiency and characteristic curves and other pertinent information as may reasonably be demanded, to carry out efficiently such tests of the plant, machinery and equipment in accordance with the Contract and shall give facilities to the Purchaser or his representative to accomplish such testing.
- 20.11 When the tests have been satisfactorily completed at the Contractor's or Sub-Contractors work, the Purchaser or his representative shall forthwith issue a certificate to that effect. If a final certificate cannot be issued, preliminary or provisional certificate shall be issued. If the tests were not witnessed by the Purchaser or his representative, the certificate may be issued on receipt of the test report from the Contractor but not later than 15 (fifteen) days after the receipt of the test reports by the Purchaser. No plant shall be shipped or dispatched before the certificate of acceptance for shipment as per Clause 23.4 has been issued. The Purchaser has a right to withhold such certificates if the sub-assemblies and assemblies covered in the list are not as per the approved list in Clause 20.5. The satisfactory Completion of these tests or the issue of the certificate shall not bind the Purchaser to accept the plant, should it, on further tests, after erection be found not to comply with the Contract.
- 20.12 Where the Contract is concluded for the supply of main plant, machinery and equipment as well as for spare parts, the Contractor shall tender for inspection the spare parts only after the main equipment has been tendered for inspection and accepted.

21.0 TESTS ON COMPLETION

Where possible all tests / inspection shall be carried out before shipment or dispatch. Should however, it become necessary for some tests / inspection to be carried out after Installation, they shall be carried out in the presence of the Contractor's representative. Should however, it becomes necessary for final test as to performance and guarantees to be held over until the plant is erected at Site, they shall be carried out in the presence of the Purchaser's representative within such time as may be considered reasonable by the Purchaser. Should the results of the tests not come within the margin specified, the test shall be repeated within 10 (ten) days from the date the plant, machinery and equipment is ready for re-test. If the results are still not satisfactory, further test, to the extent permissible by the terms of the Contract and at the sole discretion of the Purchaser, shall be conducted by the Contractor in the presence of the Purchaser's representatives after executing the necessary adjustments, repairs, rectifications and modifications etc., the cost of which shall be borne by the Contractor.

22.0 REJECTION OF DEFECTIVE PLANT, MATERIALS AND WORKMANSHIP

- 22.1 If the completed plant, machinery and equipment or any portion thereof at any time before it is finally accepted by issue of Final Acceptance Certificate be defective or fails to fulfill the requirements of the Contract, the Purchaser shall be at liberty to reject any such work done or plant, machinery and equipment supplied or materials used by the Contractor or Sub-Contractor.

The Purchaser shall give the Contractor notice as soon as reasonably practicable, setting forth particulars of such defects or failure, and, in so far as may be necessary, place the plant at the Contractor's disposal. The Contractor shall, with all speed and at his own expense, make it comply with the requirements of the Contract. Should he fail to do so within a reasonable time as may be determined by the Purchaser, the Purchaser reserves the right to reject and replace at the cost of the Contractor, the whole or any portion of the plant, machinery and equipment, as the case may be, which is defective or fails to fulfill the requirements of the Contract.

Such replacement, shall be carried out by the Purchaser within a reasonable time and at a reasonable price, and where reasonably possible to the same Contract Specification and under competitive conditions. The Contractor's liability under this Clause shall be satisfied by the payment to the Purchaser immediately on demand of all moneys paid by the Purchaser to the Contractor in respect of such plant, machinery and equipment plus the ascertained difference, if any, between the replacement documented price of the plant, machinery and equipment, including charges for installation and the original contract price, including the charges for installation in respect of such defective plant including all incidental charges incurred in relation thereto. Should the Purchaser not get the rejected plant, machinery and equipment so replaced within a reasonable time as may be determined by the Purchase, the Contractor's liability under this Clause will be satisfied by the repayment of all moneys paid by the Purchaser to him in respect of such rejected plant, machinery and equipment. In addition to the above, the Purchaser reserves the right to exercise all its right under this Contract and those available under the applicable law in relation to claim damages and losses that the Purchaser may incur in relation thereto.

- 22.2 In the event of rejection, the Purchaser shall be entitled to the use of the plant, machinery and equipment in a reasonable and proper manner for a time reasonably sufficient to enable him to obtain other replacement plant, machinery and equipment.
- 22.3 Subject to Clause 22.2 hereinabove, the Contractor may be entitled to remove and retain all plant, machinery and equipment which the Purchaser may have replaced at the Contractor's cost. If the Contractor fails to remove such rejected / replaced plant within mutually agreed time period, the Purchaser shall be entitled to cause the removal thereof and all expenses incurred by the Purchaser in connection, therewith shall be to the Contractor's account.

23.0 PACKING, PROTECTIVE PAINTING, MARKING AND SHIPPING

23.1 PACKING AND PROTECTIVE PAINTING:

- 23.1.1 The Contractor shall include and provide for securely protecting and packing the plant, machinery and equipment in accordance with the best established practices so as to protect the contents from damage during transit from point of manufacture until after arrival at the installation Site under conditions which may involve multiple handling, transport by ship, rail and road, re-shipment, storage, exposure to heat, moisture, rain etc. and possibility of pilferage. The packing standards shall be as per Technical Specification, if specified and as may be accepted by the Purchaser or its representative and wherever considered necessary, the Purchaser or his representative may check the packing before dispatch and may ask for modifications to the extent considered necessary to be carried out in the packing and the Contractor shall carry out the same. Special precautions as outlined in Clause 23.1.3 to Clause 23.1.8 below shall be taken into consideration. All packing shall allow for easy removal and checking to the extent practicable at Site. All packing cases, packing and other similar materials shall be new and supplied free by the Contractor and the same will not be returned, unless otherwise stated in the Contract.
- 23.1.2 The Contractor shall properly clean and/or shot blast the plant, machinery and equipment and apply one coat of rust inhibitor and a shop coat of paint. Shop finished plant, machinery and equipment shall be supplied finish painted. All primer, paints and colours shall be mutually agreed.
- 23.1.3 Heavy machinery shall be mounted and bolted to skids which shall be of sufficient strength to support and prevent distortion to the machine. All openings of pipes, large valves and machinery must be protected by wooden covers or plugs and machined threads must be covered by caps to protect against damage in transit.
- 23.1.4 All equipment and parts susceptible to corrosion by exposure to moisture and all electrical equipment shall be thoroughly protected against damage during transit and storage. Machine-finished surfaces shall be coated with approved anti-rust compound and all unfinished surfaces of machinery are to be given one coat of rust protective paint. In addition to normal packing, all electrical equipment shall be wrapped in polyethylene or polypropylene plastic sheet and openings in electrical equipment shall be sealed with water proof tapes. A protective grease proof paper shall be inserted between the brushes and armature motors and generators.
- 23.1.5 The Contractor shall deliver the following stores in individual separate packages, having markings, corresponding to the equipment.
- 23.1.5.1 Foundation Bolts, embedments, etc.
 - 23.1.5.2 Commissioning spares.
 - 23.1.5.3 Special tools for repair and maintenance.
 - 23.1.5.4 Refractory and lining materials
 - 23.1.5.5 Specialized installation tools, tackle, instruments and appliances.
 - 23.1.5.6 Consumables.
 - 23.1.5.7 Spare parts and accessories.

- 23.1.6 Fragile items shall be wrapped in crepe cellulose wadding or some equally efficient cushioning material and stuffed / floated in excelsior and packed in substantial wooden cover with special precaution against risk breakage.
- 23.1.7 The shipment dimensions of each package shall not exceed the maximum dimension of packing which can be accepted for transport over the roads or broad gauge system of the Indian Railways or vessel. If, however, over size consignments are unavoidable, the Contractor shall give proper notice to the Purchaser to arrange for the movement of over-size consignment.
- 23.1.8 Each equipment or parts of equipment shall, when shipped or dispatched, be tagged with reference to the assembly drawings and corresponding part number.
- 23.1.9 Notwithstanding anything stated in this Clause, the Contractor shall be entirely responsible for loss, damage or deterioration to the, materials occasioned by faulty, defective or insecure packing, or due to improper or insufficient protective measures.

23.2 MARKING:

- 23.2.1 The following shipping mark, giving the purchase order number shall be clearly stenciled with good quality non-fading paint on one side of the shipping package in characters at least 150 mm high where size of package will permit:

MISHRA DHATU MIGAM LIMITED, TELANGANA, INDIA.
PACKAGE No.
Contract No.

Package number as given above is to be followed sequentially in ascending order. There is to be no duplication of package numbers on any individual order.

- 23.2.2 On the top and one end the following shall be marked:

MISHRA DHATU NIGAM LIMITED
Package No.

- 23.2.3 On one end the following information shall be marked:

MISHRA DHATU NIGAM LIMITED
GROSS WEIGHT (KILOGRAMS)
NET WEIGHT (KILOGRAMS)
LENGTH (METERS)
WIDTH (METERS)
HEIGHT (METERS)
Made in (Country of Origin)

- 23.2.4 On the side opposite the main packing shown in Clause 23.2.1 above, the name of the Contractor, contract number, Contractor's bill of material item number-or other identifying data shall be clearly marked.
- 23.2.5 For the identification of unloading areas at the plant, machinery and equipment collared bands shall be painted encircling all packages, crates or boxes. Colour code for Contracts will be mutually agreed.
- 23.2.6 In the case of bundles or metal base, the proper markings, as here in designated, are to be placed on metal tags which are to be securely attached to the bundle or bar as conspicuously as possible.
- 23.2.7 If necessary, packages must be marked on all four sides with arrows pointing to the top.
- 23.2.8 Easily damaged material or radioactive or perishable goods must be marked on all sides with appropriate cautionary symbols.
- 23.2.9 When required due to length of unbalanced weight, the container or pieces shall have locations of cables or hooks and the center of balance indicated by proper markings.
- 23.2.10 Fabricated sections of structures and equipment must have their respective piece marks permanently stamped into the piece to a depth of not less than one mm, and the stamped area painted with rust preventive paint to a radial distance of fifty mm on the surrounding area.

23.3 SHIPPING

- 23.3.1 The Contractor shall prepare and furnish the Purchaser within three (3) months before the date of first shipment a shipping schedule showing the breakdown of the complete plant, machinery and equipment into various shipment units, with approximate weight and dimensions and the respective dates upon which such units will be ready for dispatches from the point of manufacture. This schedule shall be taken into consideration, for Installation. The Contractor shall promptly give written notice to the Purchaser of any anticipated delay in maintaining the said schedule, stating the reasons therefore. The Purchaser will book space on available vessels scheduled to sail on dates as soon as practicable, after the respective dates on which the shipment units are to be ready for shipment at the indicated port and inform the Contractor accordingly.
- 23.3.2 Shipping details shall be submitted in 10 (ten) sets and shall specifically quote the shipping marking, designation of contents and dimension in metric units, itemized net weight and total gross weight of each package. One (1) complete set of negotiable shipping documents shall be forwarded to the Purchaser immediately after shipment. Complete shipping documents shall be made available to the Purchaser at least 3 weeks in advance of the arrival of the ship at the port of unloading. Further details of shipping schedules, shipping notes and documents will be finalized at the time of the contract or thereafter.

23.3.3 In case the vessel arrives at the port of destination and the corresponding shipping documents are not in the possession of the Purchaser due to the Contractor's inability to provide the same before the vessel's arrival, the Contractor will be responsible for any expenses due to storage, etc which may be imposed against the Purchaser.

23.3.4 The Parties shall be responsible for obtaining, their respective necessary approvals from the authorities for transportation of the plant, machinery and equipment. The Parties shall use its best endeavors in a timely and expeditious manner to assist the other contracting party in obtaining such approvals, if requested. The Contractor shall indemnify and hold harmless the Purchaser from and against any claim for damages to roads, bridges or any other traffic facilities that may be caused by the transport of the plant, machinery and equipment to the Site in case of FOR Site Contracts.

23.4. NOTICE TO PURCHASER AND ACCEPTANCE FOR SHIPMENT

When all tests to be performed in the Contractor's or Sub-Contractor's premises under the terms of this Contract have been successfully carried out, the plant, machinery and equipment will be accepted for dispatch, and the Purchaser or his duly authorized representative will issue an acceptance certificate upon the receipt of which the plant, machinery and equipment shall be packed up forthwith and made ready for dispatch. No plant, machinery and equipment shall be dispatched unless an acceptance certificate has been issued for the same and dispatch instruction given by the Purchaser to the Contractor which will be issued within seven (7) days of completion of inspection/testing. The Purchaser may also at its sole discretion release in lieu of such certificate a waiver certificate. While applying for such certificates, the Contractor shall list all parts, sub-assemblies and assemblies covered and shall indicate all inspections and tests performed on them during manufacture, with copies of inspection certificates. The satisfactory Completion of these tests or the issue of the certificate shall not bind the Purchaser to accept the plant, machinery and equipment, should it, on further tests, after Installation be found not to comply with the Contract and shall not release the Contractor from its liabilities, responsibilities and obligations for the due performance of the Contract. While giving intimation for dispatch of materials the Contractor shall quote:

Contract no. brief description of materials shipped, port of shipment, date of shipment, bill of lading and value of the consignment.

Corresponding data shall be shown for other means of transport.

24.0 STORAGE

In case the shipment of material to be furnished under the contract is delayed due to the Purchaser's inability to arrange ocean shipment, unfavorable unloading conditions at an Indian Port, or if shipment cannot be made for any other reason beyond the Purchaser's control, the Contractor may be requested to either hold the shipment at his factory or place the same in proper storage approved by the Purchaser. In the event the material is placed in storage, storage charges are to be mutually agreed upon which charges in no event shall exceed the warehouse storage

charges as fixed by tariffs prevailing at the time. If storage is away from the contractor's factory, the Purchaser will have the right, if he so elects and, acts promptly, to designate the storage in which the Contractor will place the plant, but such storage will be subject to the Contractor's approval as to suitability. In the event the plant is to be held at the contractor's factory or placed in the storage as above provided the contractor will promptly notify the purchaser whether or not the Contractor's general Plant Insurance covers the plant so that the purchaser will have an opportunity to obtain insurance if necessary. Should any shipment or part of it be cancelled or held back due to the non-compliance by the contractor of the purchaser's instructions, incorrect markings of packages, or mistakes of the kind, the storage charges and extra insurance premium deriving there from, and any other charges eventually incurred, will be to the account of the Contractor.

Any charges, including insurance, which may be for the Purchaser's account as above provides will be paid by the contractor and billed to the Purchaser after purchaser's approval. The holding of the plant at the contractor's factory or placing in storage as above provided will be deemed equivalent to "Shipment" for all purposes of payment and the contractor will allow the purchaser credit for freight on such plant unless the same is caused due to non-compliance by the Contractor or for reasons attributable to the Contractor. The plant so held at the contractor's factory or placed in storage will be held for Purchaser's account, and the contractor will upon request, deliver to the Purchaser such instruments as may be reasonably requested evidencing title in the Purchaser.

25.0 PASSAGE OF RISK AND INSURANCE

25.1 Passage of Risks

25.1.1 In case of imported materials and plant, machinery and equipment, for FOB Contracts, the risk shall pass from the Contractor to the Purchaser when the materials and equipment are placed on board the vessel for shipment as defined by "FOB Port of Shipment" INCOTERMS. In case of indigenous materials and equipment the Contractor shall deliver the same on FOR Site basis including unloading at plant Site and the risk shall pass from the Contractor to the Purchaser when the materials and equipment are delivered to the Site on board road transport vehicle arranged by the Contractor.

25.1.2 If any contract work, including supplies and services, perishes or becomes unserviceable from any cause whatsoever, the Contractor shall, on demand by the Purchaser, make replacement and in such a way as to avoid disturbances in the general progress of the Installation of the Work. This shall apply irrespective of the question whether or not the risk has passed to the Purchaser, or who shall be responsible for the unserviceableness as aforesaid.

25.2 Insurance

In case of FOB port of shipment delivery for imported equipment, the Contractor shall arrange insurance for all equipment and materials to be supplied by him up to FOB port of shipment. In case of delivery of indigenous goods the Contractor shall arrange insurance for all equipment and materials up to the Site and unloading thereof. In order to enable the Purchaser to arrange proper

marine insurance for imported equipment, the Contractor shall co-operate with the Purchaser and provide necessary documentation in sufficient time for each package. Costs resulting from non-compliance by the Contractor of this provision shall be charged to the Contractor.

- 25.2.1 **Indigenous Cargo Insurance:** For indigenous supplies, the policy to be maintained by the Contractor shall insure the goods originating in India from the Contractor's/Supplier's warehouse to Plant's warehouse/Site and up to completion of Installation, erection and commissioning. This will be inclusive of supplies to and from warehouse/factory of intermediate processors/suppliers. This policy will also cover the replacement items, if any.
- 25.2.2 **Third Party Liability Insurance:** The Insurance policy to be maintained by the Contractor shall cover third party liability. The third party liability shall cover the loss/disablement of human life (persons not belonging to the Contractor) and also cover the risk of damages to others' materials/equipment/properties during construction, erection and commissioning at Site. The value of third party liability for compensation for loss of human life or partial/full disablement shall be of required statutory value and shall nevertheless cover such compensation as may be awarded by a Court of Law in India or abroad and cover for damage to others' equipment/property.
- 25.2.3 **Automobile Liability Insurance:** Covering use of vehicles/mobile equipment used by the Contractor or its Sub-Contractors (whether or not owned by them) in connection with the execution of the Contract.
- 25.2.4 Contractor shall ensure that where applicable, its Sub-Contractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Sub-Contractors are covered by the policies taken out by the Contractor.
- 25.2.5 The Purchaser shall be the principal holder of the policy along with the Contractor. The Sub-Contractors of the Contractor shall not be holders or beneficiaries in the policy nor shall they be named in the policy. Purchaser reserves the exclusive right to assign the policy.
- 25.2.6 While the payment of premium may be phased in agreement with the insurance company, at no time shall goods and services required to be provided by the Contractor shall remain uninsured by the Contractor.
- 25.2.7 A copy of the Insurance policy shall be made available by the Contractor to the Purchaser within 15 (fifteen) days in advance, before start of the first dispatch and the contractor shall ensure that the policy shall be kept alive and valid at all times up to date of commissioning.
- 25.2.8 The Purchaser reserves the right to take out whatever policy that is deemed necessary by him if the Contractor fails to keep the said policy alive and valid at all times and/or causes lapses in payment of premium thereby jeopardizing the said policy. The cost of such policy(s) shall be recovered / deducted from the amount payable to the Contractor.

- 25.2.9 The surrounding value shall be Indian Rupees [●] (Rs. [●]).
- 25.3 Upon arrival of plant, machinery and equipment at Site the Contractor shall assume custody thereof and remain responsible thereafter for safe custody until the whole plant, machinery and equipment is successfully commissioned.
- 25.4 In order to adequately cover the works under such composite and comprehensive insurance, the Contractor shall fulfill the necessary requirements/obligations as per the terms of the Contract.
- 25.5 The Contractor shall arrange Accident Insurance Policy for all his personnel including foreign experts/specialists/personnel deputed to Site and Contractor's/his Sub-Contractors' manufacturing works as well as for his Indian engineers & supervisory staff. The Contractor shall also take out for his Indian workmen a separate policy as per Employee's Compensation Act and the applicable laws.
- 25.6 As soon as shipping documents for each shipment are ready, the Contractor shall cable to the Purchaser the details of the consignment along with its value giving the name of the vessel by which the shipment is made, port of shipment, date of shipment, net and gross weight of the materials in kilograms, volume of the package, FOB value of material, freight value and other shipping particulars etc. Costs resulting from non-compliance by the Contractor of these provisions shall be charged to the Contractor.
- 25.7 All the insurance claims for insurance policies maintained by the Contractor shall be processed by the Contractor and the items which are missing / damaged in transit or during handling, storage, erection and commissioning, shall be replaced / repaired by them without any extra cost to the Purchaser. Costs resulting from non-compliance by the Contractor of provisions of these sub clauses shall be charged to the Contractor.
- 25.8 All money received under any such policy shall be applied towards the replacement and repair of the plant, machinery and equipment damaged or destroyed or for the purpose for which it has been claimed but this provision shall not affect the Contractor's liabilities under the Contract. The provisions contained in this Clause are not intended to and do not impair or in any manner limit the liabilities or obligations assumed by the Contractor as may be set forth more specifically elsewhere in the Contract.
- 26.0 TIME FOR COMPLETION**
- 26.1 The time stipulated for dispatch, delivery or completion as the case may be dates to be computed from the Effective Date of the Contract. The overall time schedule for the entire work showing various activities like design & engineering, supply of equipment, civil and structural steelwork, Installation, Testing and Commissioning etc. shall be as per the Bar/ Pert Chart enclosed with Contract Specification and the same shall be binding to both the Contractor and the Purchaser.
- 26.2 The Contractor shall attain "Time for completion" of the Project in [●] months from the Effective Date of the Contract.

26.3 “Time for Completion” indicated above is based on the assumption that the Site will be handed over to the Contractor free of obstacles and all other preconditions for installation of the material delivered are fully met. .

27.0 DELIVERY TIME, DELAYS AND EXTENSION OF TIME

27.1 A detailed schedule showing the start and finish of all phases and items of the work, as well as dates for delivery of materials and equipment and submission of drawings, shall be part of this Contract. This schedule shall show the time required for engineering, procurement and fabrication, as well as installation where applicable and subject to acts of God or Force Majeure or change in scope of Work shall be scrupulously adhered to by the Contractor.

27.2 In the event of any delay arising in any phase of the Contractor’s work, the Contractor shall promptly inform the Purchaser and Engineer of the expected delay giving reasons thereof and requesting an extension of time. It shall be the Contractor’s constant endeavor thereafter to act swiftly and make up for the delay to ensure that deliveries are made in time as far as possible.

27.3 An extension of time will normally be granted by the Purchaser, if he is satisfied that the delay arose out of reasons beyond the Contractor’s control and for the following reasons:

- a) any change in the Work as may be required and solely attributable to the Purchaser;
- b) any occurrence of Force Majeure as provided in Clause 35 (Force Majeure) hereof;
- c) any suspension order given by the Purchaser for reasons solely attributable to the Purchaser;
- d) The default by the Purchaser under the Contract hereof, if proved to be cause for delay in completion of the Work by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

Should it appear, however, that the delay has been caused by factors within the control of the Contractor, the Purchaser may grant extension reserving its right to recover the amount of Liquidated Damages, but not by way of penalty, from the Contractor for such delayed **delivery** at 1% of Contract price including taxes, duties, levies, cess, etc. per completed week of delay or part thereof up to a maximum of 10% of the Contract Price including taxes, duties, levies, cess, etc. The payment or recovery of such damages shall not relieve the Contractor from his obligations to complete the Work or from any of his other obligations and liabilities under the Contract and the Purchaser shall also reserve to exercise any other right available under the Contract and under the applicable laws.

In case the Contractor is a Consortium, the Purchaser shall recover the amount of Liquidated Damages, but not by way of Penalty, by making deduction from the account of the lead member of the Consortium, at 1% of Contract price including taxes, duties, levies, cess, etc. per completed week of delay or part thereof up to a maximum of 10% of the Contract Price including taxes, duties, levies, cess, etc.

28.0 PROGRESS REPORTS

- 28.1 The Contractor shall submit to the Purchaser monthly progress reports on or about the 20th day of every month, giving the status of the Work along with adequate number of photographs, indicating the stages of implementation of the Work.
- 28.2 For this purpose, the Contractor's work shall be sub-divided and numbered consequently into major categories and arranged in such a manner as to describe the normal sequence of the Work. Progress shall be reported by these major categories in all reports, preferably with Critical Path Network diagram and a contract completion bar chart showing the starting and completion date of all major categories for engineering, purchasing, procurement of raw materials, manufacture, inspection and dispatch along with the percentage completion of each of the above.
- 28.3 The progress report shall include a drawings status report, containing a listing of all drawings required for the due performance of the Contract and documents as detailed in Clause 17.14 together with the related reference number and titles and giving the scheduled completion dates, dates when the drawings and documents have been / will be submitted and date of receipt of approval, etc.
- 28.4 The progress reports shall also include a manufacturing status report detailing the progress of procurement of raw materials, manufacture, when the particular item or sub-assembly is expected to be ready for inspection, status of inspection, delivery, etc. both for the Contractors work and those of his Sub-Contractors.
- 28.5 The proforma for the above progress reports will be indicated by the Purchaser. The Contractor shall submit two (2) copies of such reports, including photographs to the Purchaser. The Purchaser will have the right to depute its representatives to ascertain the progress of work at the premises or works of the Contractor or of any Sub-Contractor.
- 28.6 The submission, receipt and acceptance of such progress reports shall not prejudice the rights of the Purchaser under the Contract, nor shall operate as an estoppel against the Purchaser merely by the reason of the fact that he has not taken notice of or subjected to test any Information contained in such reports.

29.0 DEPUTATION OF EXPERTS BY THE CONTRACTOR

- 29.1 The Contractor shall depute at Site it's foreign as well as India Experts from various disciplines for Installation, trial run, and commissioning and performance guarantee tests of the plant, machinery and equipment.
- 29.2 The experts shall undertake Installation, commissioning and conducting of performance guarantee tests of the plant, machinery and equipment with its auxiliaries as contracted herein so as to establish to the Purchaser that the guarantees as agreed by the Contractor in accordance with the Technical Specification are fully met and complied with.

29.3 The Contractor shall bear and pay all the cost / expenses for deputation of experts required including all costs / expenses towards remuneration, air travels from their country to India / at Site and back to their country, surface travel, local transport, accommodation, food & incidentals, communication system, medical, insurance, personal Indian Income Tax, etc. These experts should neither be treated as employees nor the agents of the Purchaser and the Contractor shall be liable for all the acts and omissions of the experts and the Contractor agrees to indemnify and hold harmless the Purchaser at all times for acts, deeds and omissions of the experts under the Contract.

30.0 SUPERVISION OF ERECTION, START-UP & COMMISSIONING AND COMPLETE INSTALLATION, ERECTION, START-UP AND PUTTING INTO COMMISSION

30.1 Supervision of Erection, Start-up & Commissioning:

30.1.1 When the Contractor requires the Contractor to provide services for the supervision of erection, start-up and putting into commission, the conditions outlined in this article will apply.

30.1.2 The Contractor shall however be solely responsible for the supervision of the work from the commencement of erection up to the demonstration of the performance guarantee of the plant and equipment supplied under the Contract. The responsibilities of Contractor shall include but not be limited to the following:

- (i). Ensuring the correctness of materials and equipment shipped in the order in which they will be required for erection.
- (ii). Advising on the safe handling of cargo at the unloading port and site storage for all materials and equipment.
- (iii). Ensuring correctness of erection of all plant and equipment supplied by the Contractor.
- (iv). Ensuring that adequate quantities of the correct commissioning spare and supplied are at site for the purposes of start-up.
- (v). Starting up and operating the plant to meet the specified performance guarantees.
- (vi). Handing over the plant to the Purchaser on the issue of the Provisional Acceptance Certificate.
- (vii). Advising on any matter pertaining to the erection and start-up on request by the Purchaser or Engineer.

30.1.3 In order to carry out his responsibilities under this section, the Contractor shall send the number experienced personnel to take up residence as site as established in the Contract. The erection and start-up schedule and the details of the strength and calibre of the resident staff the Contractor will be required to maintain at site shall be indicated in the tender by the Contractor and finalized between the Purchaser and the Contractor before the award of the contract. No resident staff shall be sent to Site until permission to do so is received from the Purchaser.

- 30.1.4 At any time during the erection period the Purchaser shall have the right to ask the Contractor to temporarily withdraw his Site staff or reduce the strength of the staff in order to keep pace with the erection programme or for any reason whatsoever at its sole discretion. In such case, the Purchaser will bear the air economy class/ first class train travelling and out-of-pocket expenses for the return trip of the personnel involved between the Site and the city of origin by the shortest route. The Purchaser will give the Contractor two (2) weeks' notice prior to requesting the temporary withdrawal of the Contractor's personnel.
- 30.1.5 The Contractor shall ensure that each individual of the Contractor's personnel resident at the Site shall cooperate with the personnel of the Purchaser. And any and all other contractors engaged in work in or around the job site, in order to avoid difficulties in carrying out work. Failure to accomplish this cooperation shall be just cause for the removal of such individual and his replacement by suitable other personnel by the Contractor at his expenses forthwith upon request by the Purchaser. In case of disagreement as to the cause for such removal and replacement, the decision of the Purchaser shall be final and binding.
- 30.1.6 On completion of the erection work and connecting up of the electrical power supply and utilities, the Contractor shall promptly notify the Purchaser of the proposed date of the commencement of Start-up operations. The duration of the Start-up period shall be established in a schedule which shall be part of the Contract. The Purchaser will provide labour, powers, fuel, utilities and supplies for operating the plant during the start-up period when the plant will be operated under the supervision of the Contractor.
- 30.1.7 Should the start-up period extend beyond the scheduled period due to either difficulties encountered with the Contractor's plant and equipment or inadequacy of the Contractor's staff, the Purchaser shall have the right to charge such amount as may be deemed reasonable by him for the material and services provided by the Purchaser as mentioned in Clause 30.1.6 above for the extended period.
- 30.2 Complete Installation, Erection, Start-up and Putting into Commission:
- 30.2.1 When the Contract requires the Contractor to undertake complete Installation of the plant, machinery and equipment, start-up and putting into commission, the conditions stated in this Clause will apply in conjunction with the other clause in so far as they are applicable.
- 30.2.2 Except otherwise expressly provided herein the responsibilities of the Contractor shall include but not be limited to, the following:
- i. Ensuring the correctness of material and equipment are shipped in the order in which they will be required for Installation.
 - ii. Taking delivery of equipment from the Purchaser's store at site and moving into the Contractor's storage and / or installation Site.

- iii. Opening of crates and packing cases, inspection and checking of equipment / materials.
- iv. Repairing and replacement of equipment / materials damaged or lost in transit or at Site and in filling and processing of insurance claims for damaged / loss of equipment / materials.
- v. Ensuring that adequate quantities of correct commissioning spares and supplies are available at Site for the purpose of the start-up of the plant, machinery and equipment.
- vi. Making arrangements to draw electricity and water to the installation Site from selected locations at site (to be within 300 m from the installation Site) where electricity and power shall be provided by the Purchaser, at such terms and conditions as stipulated in the Contract free of cost to the Contractor.
- vii. Checking foundations as constructed, including final adjustment of foundation levels by chipping and dressing, checking location, elevations etc., for anchor Bolts and carrying out minor civil works as may be required in connection with the installation work.
- viii. Complete installation of all materials and equipment supplied by the Contractor or his Sub-Contractor. This shall include the complete installation of equipment. Piping, hangers, structures etc. supplied under the Contract, including aligning, lining and levelling and connecting up electric power supply water and utilities, applying, including touching up, of approved final painting to all equipment, piping, hangers, structures etc. as supplied under the Contract.
- ix. Starting up and commissioning the plant, machinery and equipment to meet specified performance guarantees and handing over the plant to the Purchaser on issue of the provisional acceptance certificate.
- x. Providing all consumable, materials and stores required for the commissioning and installation work and for performance guarantee test, unless otherwise provided in the Contract, for due performance of the Contract.
- xi. Providing all ladders, platforms, temporary supports and other necessary facilities required for the handling and installation of the equipment supplied under the Contract.
- xii. Unless otherwise provided in the Contract, providing all construction / installation equipment welding equipment, installation and lifting tools and tackles, instruments and appliances required for the installation work, as well as

equipment tools and tackles for the transportation to Site of installation of all equipment, supplied under the Contract.

- xiii. Providing necessary supervisory and advisory personnel, staff, skilled and unskilled labour, including electrical personnel with approved license as per Indian Electricity Rule 1956as amended from time to time, to ensure that the whole of the installation work is completed in all respects within the period specified in the Contract. The Contractor shall ensure when local laws require, the concerned employees obtain and hold certificates of competency for their work from the competent authority.

30.2.3 The Contractor shall be responsible for protection and / or diversion of underground and all existing over ground services indicated in the drawing made available to the Contractor and form part of Contract Specification.

30.2.4 On the completion of the installation work and connecting up of electric power supply, water and utilities, the Contractor shall promptly notify the Purchaser and Engineer of the proposed date of the commencement of the start-up operations. The duration of the start-up and commissioning period shall be established in a schedule which shall be part of the Contract. The Purchaser will provide facilities, such as skilled & unskilled manpower, input/ raw materials, fuel, power, water and utilities to the Contractor as required for operating the equipment during such period, and during this period the equipment shall be operated under the supervision of the Contractor.

30.2.5 Should the erection and installation or the start up and commissioning of the Plant and equipment extend beyond the scheduled period due to difficulties encountered with the equipment supplied under the Contract or due to inadequacy of the Contractor's staff or due to incorrectness in erection work or due to any other reason for which the Contractor is responsible, the Purchaser will have the right to realize such amount from the Contractor as may be deemed reasonable by the Purchaser for the extended period.

31.0 PERFORMANCE GUARANTEE TESTS AND PROVISIONAL ACCEPTENCE

31.1 The Contractor shall be responsible for carrying out performance guarantee tests as per the Contract Specification in the presence of the Purchaser on all plant, machinery and equipment supplied by him. This responsibility shall rest with the Contractor regardless of whether the erection has been carried out by him or any other agency.

31.2 On the completion of a satisfactory start-up and commissioning operation, the Contractor shall notify the Purchaser in writing of the proposed date of the commencement of the performance tests. A detailed procedural protocol shall be prepared by the Contractor to this effect, which shall be discussed and agreed upon and provided to the Purchaser. Every item of plant, machinery and equipment, as well as the plant machinery and equipment as a whole, supplied by the Contractor shall undergo a performance test unless otherwise decided by the Purchaser. The duration of the performance tests shall be as provided in the Contract Specification. The man power utilization

for carrying out the performance guarantee test by the Contractor shall not be more than the strength of normal operation recommended by the Contractor and accepted by the Purchaser.

- 31.3 During the performance test the plant, machinery and equipment will be operated by the Purchaser under the supervision of the Contractor. The Contractor shall provide adequate engineers/specialists and commissioning spares for smooth conducting of the performance guarantee test. Unless otherwise agreed to in the Contract, the Purchaser will provide necessary input material, skilled and unskilled labour, fuel, power, utilities and other relevant supplies.
- 31.4 Should the operation of the plant, machinery and equipment during the performance test be interrupted then the performance test shall be re-started and run again for the period as specified in the Contract. The Purchaser may at his discretion permit the period of test run prior to the interruption to be reckoned as part of the above mentioned period, in which case the test will be run for the duration of the balance period on re-commencement.
- 31.5 The Purchaser will have the right to charge such amounts as may be deemed reasonable for materials and services provided by the Purchaser, in case performance tests continue for an unreasonably long period due to interruption as defined in Clause 31.4 above. The Purchaser shall charge the Contractor on actuals.
- 31.6 The plant, machinery and equipment shall be considered to have concluded the performance test satisfactorily if, during the entire duration of the test, save as expected in Clause 31.4 above, the plant, machinery and equipment shall have delivered the guaranteed specified output or operated at the guaranteed specified capacity utilizing the quantity and quality of raw materials, utilities, fuel and supplies as specified in the Contract Specification.
- 31.7 On the satisfactory completion of the performance guarantee test, the Purchaser will issue a Provisional Acceptance Certificate provided the Contractor undertake to rectify all defects which do not influence normal operation but which are nevertheless present in the plant and which are indicated in writing by the Purchaser.
- 31.8 Normally, the entire plant, machinery and equipment will have to satisfactorily complete the performance test before the issue of the Provisional Acceptance Certificate. In special circumstances and at the Purchaser's sole discretion, the Provisional Acceptance Certificate may be issued for a part of the plant, machinery and equipment.
- 31.9 The date of completion of performance guarantee test shall be considered to be the date of the PAC, and the plant, machinery & equipment is ready for commencement of commercial production.

32.0 DEFECT LIABILITY PERIOD AND FINAL ACCEPTENCE

- 32.1 The defect liability or guarantee period shall be as stated in Clause 32.2 and after satisfactory completion of guarantee period the Purchaser will issue the Contractor a Final Acceptance Certificate (FAC). During the guarantee period the plant, machinery and equipment will be operated by and under the supervision of the Purchaser according to instruction issued by the

Contractor but the plant, machinery and equipment will not be deemed to have been formally taken over by the Purchaser. On the satisfactory completion of the guarantee period and issuance of the FAC, the Contractor shall be relieved of its contractual obligations under the Contract and the Contractor shall be entitled to receive the agreed payment towards FAC.

- 32.2 The Contractor shall warrant that the facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the plant, machinery and equipment and structures and refractories supplied and of the work executed for twelve (12) months from the date of issue of Provisional Acceptance Certificate.
- 32.3 The Purchaser shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Contractor to inspect the defect.
- 32.4 The Purchaser shall afford the Contractor all necessary access to the Work and the Site to enable the Contractor to perform his obligations. The Contractor may, with the consent of the Purchaser and after submission of Bank Guarantee for the equivalent cost of plant, machinery and equipment, remove from the Site any plant, machinery and equipment or any part of the Works that are defective if the nature of the defect, and / or any damage to the plant, machinery and equipment caused by the defect, is such that repairs cannot be expeditiously carried out at the Site. In case defective parts are not repairable at Site but it is essential in the mean time for the commercial use of plant, the Contractor shall replace at Site free of cost to the Purchaser, the defective parts, before the defective parts are removed from the Site.
- 32.5 If the repair, replacement or making good is of such a character that it may affect the efficiency of the plant, machinery and equipment or any part thereof, the Purchaser may give to the Contractor a notice requiring that tests of the defective part of the plant, machinery and equipment shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.
- 32.6 If such part fails the tests, the Contractor shall carry out further repair, replacement or making good (as the case may be) until that part of the plant, machinery and equipment passes such tests. The Purchaser and the Contractor shall agree upon the tests. If the Contractor does not commence the rectification either by repair or replacement of such defects within 30 (thirty) days from the date of notice by the Purchaser or does not complete the rectification with reasonable diligence and within a reasonable time, the Purchaser may, at its option, rectify the defects at the Contractor's expense. The Purchaser shall, in such case, deduct from payment due to the Contractor the expenses incurred by the Purchaser for remedy of such defects without prejudice to the other rights of the Purchaser under the Contract and under the applicable laws.
- 32.7 If the Contractor fails to commence the work necessary to remedy such defect of any damage to the plant, machinery and equipment caused by such defect within a reasonable time, which shall in no event considered to be less than 15 (fifteen) days, the Purchaser may, following notice to the Contractor, proceed to do such work, and the costs incurred by the Purchaser in connection therewith shall be paid to the Purchaser by the Contractor or may be deducted by the Purchaser from any money due to the Contractor or claimed under the performance Bank Guarantee.

- 32.8 If the plant, machinery and equipment or any part thereof cannot be used by reason of such defect and for making good of such defect, the Defect Liability Period of the plant, machinery and equipment or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Purchaser because of any of the aforesaid reasons.
- 32.9 Except as provided in the Contract, in the event of loss of or damage to property / accident or injury to workers / indemnification, hereof, the Contractor shall be under no liability whatsoever and howsoever arising, in respect of defects in the plant, machinery and equipment, design or engineering or work executed that appear after completion of the project or any part thereof, except where such defects are the result of the negligence, fraud, criminal or willful action of the Contractor.
- 32.10 In addition, the Contractor shall also provide an extended warranty for any repaired or replaced component of the plant, machinery and equipment for a period of minimum twelve (12) months from the date of repair / replacement.

33.0 CHANGES IN THE WORK

- 33.1 The Purchaser shall have the right to propose and / or consider Contractor's proposal, and subsequently order the Contractor from time to time during the performance of the Contract to make any changes, modification, addition or deletion to, in or from the Plant, Machinery & Equipment (hereinafter called "Change"), provided that such Change falls within the general scope of the plant, machinery and equipment and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Plant, Machinery & Equipment and the technical compatibility of Change envisaged with the nature of Plant, Machinery & Equipment as specified in the Contract.
- 33.2 If the Purchaser proposes and / or considers Contractor's proposal for a Change pursuant to Clause 33.1 hereof, it shall send to the Contractor a "Change Request" requiring the Contractor to prepare and furnish to the Purchaser as soon as reasonably practicable a "Change Proposal" which shall include the following-
- a) Brief description of the Change
 - b) Effect on the Time for Completion
 - c) Estimated cost of the Change
 - d) Effect on functional Guarantees (if any)
 - e) Effect on any other provisions of the Contract
- 33.3 The pricing of the Change Proposal shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the parties thereto shall agree on specific rate for the valuation of the Change.

- 33.4 On receipt of the Change Proposal, Purchaser and the Contractor shall mutually agree upon all matters therein contained. Within Thirty Days after such agreement, the Purchaser shall, if it intends to proceed with the Change, issue the Contractor a Change Order.
- 33.5 If the Purchaser decides not to proceed with the Change for whatever reason, it shall, within the period of Thirty Days, notify the Contractor accordingly.

34.0 OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

- 34.1 All drawings, specifications, materials and design furnished by the Purchaser, Engineer, or their representatives shall be treated as the strictly confidential property of the Purchaser. All such drawings, specifications, manuals and other materials shall be returned to the Purchaser upon the completion of the work under this Contract. No copies, duplications or Photostats shall be retained by the Contractor without the consent of the Purchaser.
- 34.2 All drawings, specifications, and manuals and all specific designs furnished by or through the Contractor shall be treated as strictly confidential by the Purchaser, his employees and agents and shall be the property of the Purchaser who is entitled to use them for execution of the Contract and operation & maintenance of the plant, machinery and equipment being subject to the Contract.

35.0 FORCE MAJEURE

If at any time during the continuance of this Contract, the performance in whole or in part, neither party shall be liable of performance under this Contract, any obligations under the Contract of any party is prevented or delayed due to reasons beyond such party's control, including but not limited to acts of God, fire, flood, earthquake other natural catastrophes, any law, order, regulation, direction, action of any civil or military authority, national emergencies, insurrections, riots, war (whether declared or not), hostility, acts of the public or enemy, civil commotion, sabotage, explosion epidemic, quarantine restrictions, strikes and lock-outs, work stoppage or other labour difficulties, absence of the usual means of communication or transportation (hereinafter referred to as `eventuality`) provided however the party to which the force majeure has happened shall use commercially reasonable efforts to eliminate such an event.

Force majeure shall also be deemed in the event of any regulatory decision or government order requiring the either party to suspend its service(s) or operation(s) for any reasons whatsoever.

Notice of the happening of any such eventuality or force majeure as mentioned herein shall be given by either party to the other within fifteen (15) days from the date of the occurrence thereof along with supporting proof of the occurrence of the Force Majeure event , neither party shall, by reason of such eventuality, be entitled to terminate this Contract, nor shall either party have any claim for damages against the other in respect of such non-performance, or delay in performance, and the work under this Contract shall be resumed as soon as practicable after such eventuality has come to an end or ceased to exist, and the decision of the Purchaser as to whether the work has been so resumed shall be final and conclusive.

Certificate of a Chamber of Commerce (Commerce and Industry) or other competent authority or organization of respective country shall be a sufficient proof of commencement and cessation of the above circumstances.

The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance it prevented, hindered or delayed. The time for completion shall be extended by number of days the party giving notice was prevented from performing his obligation due to Force Majeure, in accordance with Clause 27 hereof.

Should one or both parties be prevented from fulfilling their contractual obligations by a state of force majeure lasting continuously for a period of at least six (6) months, both the parties shall consult each other regarding the further implementation of the Contract, provided always that, if no mutually agreed arrangement is arrived at within a period within three (3) months from the expiry of the six (6) months referred to above, the Contract shall be deemed to have expired at the end of the said six (6) months referred to above. The above mentioned expiry of the Contract will imply that both the parties have the obligation to reach an agreement regarding the winding up and financial settlement of the Contract.

36.0 TEMPORARY SUSPENSION

36.1 Temporary Suspension during manufacture and Installation

36.1.1 The Purchaser may at any time temporarily stop the work being performed under the Contract or any part thereof by notice in writing to the Contractor specifying the reasons and approximate period of such suspension. All work so stopped shall be resumed by the Contractor based on a schedule to be mutually agreed upon between the Purchaser and the Contractor. Total cumulative period of such temporary suspension shall not exceed a period of six (6) months. However, if the period of temporary suspension exceeds six (6) months, the Parties shall mutually agree on the further course of action.

36.1.2 The Purchaser will not pay the Contractor for any work which is performed during such an interval of suspension, and the Purchaser shall not be liable to the Contractor for any damages or loss caused by such a suspension of work. However, the reasonable cost of necessary preservation of specific items, storage, watch & ward, withdrawal and re-deputation, etc, which is required during such suspension period, not for reasons attributable to the Contractor, to ensure proper resumption of work shall be mutually agreed between the Purchaser and the Contractor and shall be borne and paid by the Purchaser.

If the aggregate duration of the suspensions of the Contract for reasons not due to Contractor's default exceeds six (6) months on account of one or more periods of suspension, then the Parties shall mutually agree on the further course of action. In the event of termination of the Contract for reasons of suspension solely attributable to the Purchaser the documented costs incurred by the Contractor and if agreed by the

Purchaser, in performing the portion of the scope of supply prior to termination incurred for the execution and/or by the Contractor prior to the date of termination shall be paid by the Purchaser.

The extra/additional cost (if any) incurred by the Contractor in giving effect to the Purchaser's order under this Clause shall be borne by the Purchaser unless such suspension is (i) otherwise provided for in the Contract; (ii) necessary for proper execution of the work or by reason of weather or other force majeure conditions or by some default on the part of the Contractor; (iii) necessary for safety works or part thereof, provided the Contractor shall not be entitled to recover any such extra cost unless he gives notice in writing of his intention to claim to the Purchaser with 30 days of the purchaser's order. The Purchaser shall settle and determine the extra payment to be made to the Contractor in respect of such claims as the Purchaser/Engineer shall consider fair and reasonable.

37.0 PATENT INFRINGEMENT AND INDEMNITY

37.1 Patent Infringement

- 37.1.1 The Contractor shall at all times protect, indemnify and save/ keep harmless the Purchaser, its successors, assigns, , any claim made by a third party against all liability, including costs, expenses, claims, suits or proceedings at law, in equity or otherwise, arising out of, or in connection with, any actual or alleged patent infringement (including process patents, if any), or violation of any license with respect thereto, by reason of the manufacture and/or sale by, or on behalf of, the Contractor of the plant or any part thereof, or the purchase thereof by the Purchaser or the use thereof in India for the purchase for which it is furnished, or the sale by the Purchaser, its successors or assigns or products made, manufactured, fabricated, processed or produced with the said plant or any part thereof, and will defend or settle at the Contractor's own expense, any such claims, suits, or proceedings.
- 37.1.2 The Purchaser will promptly notify the Contractor in writing of any such claim, suit, action or proceeding coming to its attention, giving authority and all available information and assistance for the Contractor's defense of the same. If at any time the installation of the plant, or any part thereof or the use thereof in India for the purpose for which it is furnished, or the sale of products produced therewith, is prevented or enjoined because of patent infringement or claimed infringement, the Contractor shall promptly at his own expense, either procure for the Purchaser the right to use and continue to use such plant or replace the same at his own expense with equally efficient non-infringing plant satisfactory under all requirements of the Contract, so that the operation of the Purchaser's plant will not be unduly delayed or interrupted. If shipment of the plant, or any part thereof is prevented by attachment, injunction or otherwise at, or in the course of transit from, the Contractor's factory or other point of origin to the site of the Purchaser's plant, as a result of any claim of Patent infringement, the Contractor shall, at his own cost and expense, promptly furnish and post the necessary bond or take such other steps as may be necessary to enable shipment to be made without delay. The Purchaser will have

the right at its own expense to retain counsel of its own choice to collaborate in the defense of any such claim, suit action on proceeding.

37.2 Indemnity

The Contractor assumes responsibility for, and shall at all times indemnify and save harmless the Purchaser, the Engineer, or their officers or employees from all losses, liability, claims, costs, expenses, taxes and assessments, including penalties, punitive damages, attorney's fees and court costs which are, or may be, required with respect to any breach of the Contractor's obligations under this Contract, or for which the Contractor has assumed responsibility under this Contract, including those imposed under any contract, local or national law or laws, or in respect to all salaries, wages, or the compensation of all persons employed by the Contractor or his Sub-Contractors or suppliers in connection with the performance of any work covered by the Contract. The Contractor shall execute and deliver and shall cause his subcontractors and suppliers to execute and deliver such other further instruments and to comply with such requirements of such laws, and regulations as may be necessary there under to confirm and effectuate this Contract and to protect the Purchaser, Engineer, or their officers or employees. The Purchaser shall not be in any way responsible for any accident or damages incurred or claims arising there from during the period of Erection, Installation and putting into operation and commissioning of the plant, machinery and equipment under the responsibility and supervision of the Contractor.

38.0 ENVIRONMENT

- 38.1 The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to avoid injury, damage and nuisance to people and property resulting from pollution, noise and other results of his operations. The Contractor shall ensure that air emission, surface discharges and effluent from the Site during the Contract period shall not exceed the values indicated in the Purchaser's requirements, and shall not exceed the values prescribed by law. The Contractor shall conform to the Purchaser's requirements and shall indemnify the Purchaser against any liability or damages or claims arising out of his operations.
- 38.2 The Contractor shall abide by the following environment, safety and health policy of the Purchaser.
- a) The Contractor must adhere to all the applicable statutory laws pertaining to safety, health and environment.
 - b) The Contractor must ensure that there is no wastage of water at the Work Site. The Contractor must also ensure that all the water tapping points are leak proof.
 - c) All the motor vehicles of the Contractor used for transporting materials/machinery etc. should have pollution control certificates and the same should be submitted at the time of obtaining gate passes. A copy of the same must be exhibited/pasted on the vehicle also.
 - d) The Contractor must ensure dust suppression measures in the work areas by sprinkling of water etc. and also ensure that all his workers use dust masks while working in dusty areas.
 - e) The Contractor must ensure proper housekeeping at site by keeping the work areas free from unwanted material and greases, oil to avoid slips & falls.

- f) The Contractor must ensure that all the debris generated during the work is transported safely to dump yard such that there is no spillage of debris on the road during transportation (by covering with a plastic sheet/tarpaulin)
- g) All the garbage collected from, dust bins etc. should be transported in covered vehicles.
- h) All the material which may be recycled / reused should be transported to the designated place for reuse/recycling.
- i) All the cut jungle growth and trees should be disposed at the dumping yard without open air burning.
- j) The Contractor must ensure that there is no spillage of oil or paints on the floors/grounds etc.
- k) All representatives/supervisors/workers of contractors must take safety and environmental induction training and comply with the instructions given therein.

39.0 REMEDIES OF PURCHASER

- 39.1 All costs or expenses for which the Contractor may become liable to the Purchaser under the Contract will be recovered from any invoice of the Contractor after informing the Contractor .If no amount is due to the Contractor such amount will be billed with evidence by the Purchaser to the Contractor. The Contractor shall pay the bills within sixty (60) days after receipt or advice the Purchaser of any objections within fifteen (15) days.
- 39.2 Failure of either party to insist upon strict performance of any of the terms and conditions of the Contract will not be deemed as a waiver of any rights or remedies that the said party may have and will not be deemed as a waiver of any subsequent default under the terms and conditions of the Contract. No right or remedy of the either party will be exclusive of any other right or remedy and the said party will have all rights and remedies given under the Contract and now or hereafter existing in law or by statute. The shipping or delivery by the Contractor or receiving of the payment by from the Purchaser for the plant, machinery and equipment under this Contract will not be deemed a waiver of any rights for any prior failure by the Contractor to comply with any of the provisions of the Contract.
- 39.3 All costs, charges damages or expenses which the Purchaser may have paid, for which under the Contract, the Contractor is liable, may be deducted, by the Purchaser from any money due or becoming due by him to the Contractor under the contract, or may be recovered by action of law or otherwise from the Contractor.

40.0 ARBITRATION

- 40.1 Any dispute(s) or difference(s) whatsoever arises under or out of or in connection with this Contract, or in respect of any defined legal relationship associated therewith or derived therefrom, the parties agree resolve/settle the same by submitting that dispute to arbitration in accordance with the International Centre for Alternative Dispute Resolution (ICADR) Arbitration Rules 1996.

The authority to appoint the arbitrator(s) shall be the International Centre for Alternative Dispute Resolution (ICADR).

The international center for alternative dispute resolution will provide administrative services in accordance with ICADR Arbitration Rules 1996

The language of the arbitration proceeding shall be English

The place of arbitration proceedings shall be Telangana, India.

Note: In respect of PSUs/Government organizations, the DPE guidelines shall be applicable.

Work under the contract shall be continued by the contractor during the arbitration proceedings, unless otherwise directed in writing by the Purchaser or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrators is obtained, and save as those which are otherwise expressly provided in the Contract, no payment due or payable by the purchaser shall be withheld on account of such arbitration proceedings, unless it is the subject matter or one of the subject matter thereof.

- 40.2 Work under the Contract shall be continued by the Contractor during the arbitration proceeding, unless otherwise directed in writing by the Purchaser or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrators is obtained, and save as those which are otherwise expressly provided in the Contract, no payment due or payable by the Purchaser shall be withheld on account of such arbitration proceedings, unless it is the subject matter or one of the subject matters thereof.

41.0 ADDITIONAL CONDITIONS FOR COMPLETE ERECTION OF EQUIPMENT

- 41.1 When the Contract requires the Contractor to undertake complete erection of plant, machinery and equipment start-up and putting into commission, the following conditions will apply, in conjunction with other clauses of the conditions of contract as stated hereinbefore in so far as they are applicable.

- (i) The Contractor shall be solely responsible for the satisfactory Installation, start-up and commissioning of the plant, machinery and equipment supplied under the Contract, including demonstration of performance guarantees notwithstanding that the Contractor may have been assisted by the Purchaser or his authorized representative in doing so.
- (ii) If the Contractor performs any work in a manner contrary to the Contract without the written approval of the Engineer/Purchaser, the Contractor shall bear all the costs arising there from and shall be responsible for all the losses to the Purchaser arising there from.

41.3 Installation

Installation and erection work shall be carried out by the Contractor in the presence and under the general supervision and to the satisfaction of the Engineer/Purchaser. The Contractor shall receive instructions and directions from the Engineer/Purchaser in connection with the Work and shall strictly abide by the same, within the preview of the Contract. If the Contractor performs

any work in a manner contrary to the Contract without the written approval of the Engineer/Purchaser, the Contractor shall bear all the costs arising therefrom and shall be responsible for all the damages and direct losses to the Purchaser arising therefrom.

41.4 Facility to Purchaser's Engineers

The Contractor shall provide every reasonable facility and opportunity to the Purchaser's engineers and personnel as required by the Purchaser to become familiar with the Installation, erection, operation and maintenance of the equipment supplied under the Contract.

41.5 Programme and Particulars of work and Progress Reports

41.5.1 The Contractor shall submit to the Purchaser for his approval before the commencement of erection work and subsequently, at such times as may be required by the Purchaser, the programme and order in which the Contractor proposes to carry out the work, with the date and completion times for various parts and phases of the work, including particulars regarding the Contractor's arrangements for carrying out the work and of the erection and transportation equipment and tools and category wise staff and labour which the Contractor shall engage on the work, such programmes shall be within the overall time schedule of completion of erection of equipment as specified in the contract. The submission to and approval by, the Purchaser of such programme or the furnishing of such particulars shall not relieve the Contractor of any of his duties or responsibilities under the Contract.

41.5.2 During the progress of the Work, the Contractor shall submit to the Engineer monthly progress reports and such other reports on the Installation work and the Contractor's field organization as may be required by the Engineer.

41.6 Contractor's Agent and Personnel

41.6.1 In order to carry out responsibilities under this section, the Contractor shall employ one competent agent, whose name shall be previously communicated in writing by the Contractor to the Purchaser, to superintend the Installation work. The said agent shall be constantly present at Site during working hours and during the extended period so granted to carry out the Installation work and any instructions given to the said agent by the Purchaser and / or Engineer shall be deemed to have been given to the Contractor.

41.6.2 The Contractor shall ensure that his agent and every other personnel employed by him at Site shall co-operate with any and all others agencies engaged in the Site. Failure to extend such co-operation or misconduct or incompetence or negligence by any individual including the agent, shall be sufficient cause for removal from the Site of such individual by the Contractor and the Contractor shall remove such individual forthwith from the Site, if required by the Purchaser. In such cases, the Contractor shall provide immediately competent personnel to replace such individual.

41.7 Working Hours

A normal working day shall mean eight hours of work. There shall be six (6) working days in a week. No work during Sundays and other locally recognized holidays and during night shall be carried out by the Contractor without the written permission of the Engineer. With the exception that, when the carrying out the work is unavoidable or necessary for the saving of life or property or for the safety of the erection work, the Contractor shall carry out such work and shall immediately inform the Purchaser / Engineer to that effect.

41.8 Supply of Installation Equipment, Materials and Labour

Unless otherwise provided in the Contract, the Contractor at his own expenses shall supply all Installation, erection and transportation equipment, tools, materials and labour and all other things of every kind necessary for the due fulfilment of the Contract.

41.9 Delay in Obtaining Materials from Purchaser

If the Purchaser has undertaken to supply any material specified in the Contract at rates and conditions stated therein, the Contractor shall keep himself in touch with the day to day position regarding the supply of materials by the Purchaser and shall so adjust the progress of the Work that his labour may not remain idle nor may there be any other claim due to or arising from delay in obtaining the materials. No claim whatsoever shall be admissible by the Purchaser on account of delay in supplying materials, if any.

41.10 Purchaser's Installation and Transportation Equipment

The Purchaser may at his discretion give on hire to the Contractor installation and/or transportation equipment, if available, for the use of the Contractor (but without prejudice to the Contractor's obligations under Clause 41.8 hereof) during the execution of the work on such terms as may be specified in the Contract or in a separate agreement for Hire of plant. The Contractor shall take all reasonable care of all such equipment belonging to the Purchaser but committed to his charge and shall be responsible for all damage or loss caused to such equipment while they are in his charge. On completion of the Contract or at its termination for any reason whatsoever or at any earlier occasion as required by the Purchaser, the Contractor shall return all such equipment to the Purchaser in good order and repair, wear and tear expected, and shall be entirely responsible for any failure to account for the same or any damage done thereto.

41.11 Return of Surplus Materials

Notwithstanding anything contained to the contrary anywhere in this Contract, wherever any materials for the execution of the work are procured with the assistance of the Purchaser, either by issue from the Purchaser's stocks or purchase made under orders or permits or license issued by the Purchaser, the Contractor shall use the said materials economically and solely for the purpose of the work and shall not dispose of them without the written permission of the Purchaser and shall return to the Purchaser all such surplus serviceable materials that may be left with the Contractor after the completion of the Contract or at its termination for any reason whatsoever, on being paid for or credited such price as the Purchaser shall determine, having due regard to the initial cost and the condition of the materials at the time of such return thereof. The price to be

allowed to the Contractors however shall not exceed the amount charged to him, excluding the storage charge if any. The decision of the Purchaser in this regard shall be final and conclusive. In the event of a breach of the aforesaid condition, the Contractor shall (in addition to making himself liable for action for contravention of the terms of the license or permit and/or for criminal breach of trust) be liable to the Purchaser for payment of double the cost the material not returned as determined by the Purchaser plus all money, advantages of profits resulting or which in the usual course would have resulted to him by reason of such breach.

41.12 Accident or Injury to Workmen

41.12.1 The Contractor shall be solely liable for any accident or injury that may happen to any of his personnel engaged in connection with the installation work according to the Contract within the battery limit. The Purchaser shall not be liable for or in respect of any damage or compensation payable at law in respect of or in consequence of any accident or injury to any personnel in the employment of the Contractor and the Contractor shall indemnify and keep indemnified the Purchaser against all such claims, damages, compensations and proceedings.

41.12.2 The Contractor shall forthwith report to the Engineer all cases of accidents to any of his personnel and shall make every arrangement to render all possible assistance and aid to the victims of the accident.

41.13 Compliance with Statutory and other Regulations

41.13.1 The Contractor shall, in all matters arising in the performance of the Contract, confirm at his own expense with the provisions of all Central or State statutes, ordinances or laws and the rules, regulations, or bye-laws of any local or other duly constituted authority and shall keep the Purchaser indemnified against all penalties and liabilities of every kind for breach of any such statute, ordinance, law, rule, regulation or bye-law.

41.13.2 The Contractor shall give all notices and pay all fees and taxes required to be given or paid under any Central or State statutes, ordinances or other laws or any regulation or bye-laws of any local or other duly constituted authority in relation to the Installation work except where the Purchaser is statutorily required to obtain such approvals / clearance.

41.14 Payment of Taxes for Foreign Personnel

The Contractor shall pay all taxes due in India in respect of all personnel employed by him for Installation work, including any foreign personnel who are non-residents of India as detailed under the Contract.

41.15 Work Permits, Passports etc.

The Contractor shall be responsible for arranging and obtaining at his own cost the necessary work permits, passports, visas, police permits and expenses for custom's duty related to personal

and other effects of any personnel employed by him for Installation work, who are non-residents of India. Purchaser shall make all necessary efforts in order to help the Contractor in doing so.

41.16 Travelling Expenses

All travelling expenses for the Contractor's personnel shall be borne by the Contractor.

41.17 Labour Rules

41.17.1 Provisions of Contract Labour Act

In respect of all labour, directly or indirectly, employed by the Contractor for the Installation work, the Contractor shall comply with the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, or any amendment thereof, and all legislations and rules of the State and/or Central Government or other local authority, framed from time to time governing the protection of health, sanitary arrangements, wages, welfare and safety for labour employed on the Installation work. The rules and other statutory obligations with regard to fair wages, welfare and safety measures, maintenance of registers etc., will be deemed to be part of the Contract.

41.17.2 Provisions of Minimum Wages and Payment of Wages Act

- (i). The Contractor shall comply with the provisions of the Minimum Wages Act, 1948, the Payment of Wages Act, 1936, Provident Fund and Miscellaneous Provisions Act 1972, Employees State Insurance Act 1948, and any amendment thereof in respect of all employees employed by him for the purpose of carrying out the Installation work. The Contractor shall supply to the Purchaser any labour required to work wholly or partly under the direct order and control of the purchaser, whether in connection with any work being executed by the contractor or otherwise for the purpose of purchaser, and such labour shall for the purpose of this clause still be deemed to be persons employed by the Contractor.
- (ii). If any amount shall, as a result of any claim or application made under the said applicable laws, be directed to be paid by the Purchaser, such, amounts shall be deemed to be amounts payable to the Purchaser by the Contractor. On failure by the Contractor to repay the Purchaser, any amounts paid by the Purchaser as aforesaid, within seven (7) days of demand being made from the Contractor, the Purchaser shall be entitled to recover the same from any amounts due or accruing to the Contractor under this or any other contract with the Purchaser.
- (iii). In the event of the retrenchment of workers by the Contractor or Sub-Contractors employed by the Contractor during or after the completion of the Work, the retrenchment compensation and other benefits will be paid by the Contractor to the workers as per the Industrial Disputes Act.

41.17.3 Provisions of Employee Compensation Act

The Contractor shall at all times indemnify and keep indemnified the Purchaser against all claim for compensation under the provision of the Employee Compensation Act, 1923 or any other law for the time being in force and as amended from time to time, in respect of, any workman employed by the Contractor in carrying out of the Contract and against all costs and expenses or penalties incurred by the Purchaser in connection therewith. In every case in which, by virtue of the provisions of Section 12, sub-section (1) of the Employee Compensation Act, 1923, the Purchaser is obliged to pay compensation to a workman employed by the Contractor in executing the contract the Purchaser shall recover from the Contractor the amount of the compensation so paid and, without prejudice to the rights of the Purchaser under Section 12, sub-section (2) of the said Act, the Purchaser shall be at liberty to recover such amount or any part thereof deducting it from the security deposit or from any sum due by the Purchaser to the Contractor whether under this Contract or otherwise. The Purchaser shall not be bound to contest any claim made against him under Section 12, sub-section (1) of the said Act, except on the written request of the Contractor and upon his giving to the Purchaser full security for all costs for which the Purchaser might become liable in consequence of contesting such claim.

41.17.4 Accommodation for Contractor's Staff

No quarters shall normally be provided by the Purchaser for the accommodation of the Contractor or any of his staff employed in connection with the Installation work. In exceptional cases where accommodation is provided to the Contractor at the Purchaser's discretion, recoveries shall be made at such rates as may be fixed by the Purchaser towards the rent of the building and furniture and fittings, if any, therein, as well as charges for electric current, water supply and conservancy.

41.17.5 Accommodation for workmen

The Contractor shall, at his own expense, make adequate arrangement for housing, supply of drinking water and provision of toilets for his staff and labour and disposal of sewerage. Suitable sites on the Purchaser's land, if available, may be allotted to the Contractor for the installation of camp site on such terms and conditions as may be prescribed by the Purchaser. All camp-sites shall be maintained in clean and sanitary condition by the Contractor at his own cost.

The Contractor shall comply with all sanitary rules in force and carry out all sanitary measures and permit inspection of all sanitary arrangement at all reasonable times by the Purchaser. Should the Contractor fail to make adequate sanitary arrangements, these will be provided by the Purchaser and the cost thereof shall be recovered from the Contractor.

41.17.6 Preservation of Peace

The Contractor shall take requisite precautions and use his best endeavour to prevent any riotous or unlawful behaviour by or amongst, his workmen and/or others employed by him and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the Site. In the event of the Purchaser requiring the

maintenance of a special police force at or in the vicinity of the Site during the tenure of the Contract, in consequence of the riotous or unlawful behaviour by or amongst the Contractor's workmen and/or others employed by him, all expenses thereof and costs of all damages due to such riotous or unlawful behaviour shall be borne by the Contractor, and, if paid by the Purchaser, shall be recoverable from the Contractor from any moneys due or that may become due to the Contractor by the Purchaser. The Contractor also undertakes to indemnify and hold harmless the Purchaser against any claims on such account.

41.17.8 *Infectious Diseases*

The Contractor shall remove from his camp site such labour and their families who refuse protective inoculations and vaccinations when called upon to do so by any competent authority. In the event of any breakout of infectious disease in the camp site, the Contractor undertakes to forthwith provide for all medical facilities and assistance and take all possible steps to prevent spread of such disease and also discard and destroy all belongings of and used materials by the infected parties and promptly arrange new accommodation in healthy sites as may be required by the labour and employees of the Contractor.

41.17.9 *Medical Facilities at Site & health & safety*

The Contractor shall provide medical facilities at the Site as per rule in force in relation to the strength of the Contractor's staff and workmen. The Contractor shall at all times take all reasonable precaution to maintain the health and safety of its personnel, employees and workmen. The Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance facilities/services are available at all times at the Site and suitable arrangements are made for all necessary welfare and hygiene requirements and for prevention of epidemics. The Contractor shall also appoint an accident prevention officer at the Site responsible for maintaining safety and protection against accidents.

41.17.10 *Use of Intoxicants*

The sale, use & consumption of alcohol or other intoxicating beverages in the Site or in any of the buildings, encampments or tenements owned, occupied by, or within the control of the Contractor or any of his employees or Sub-Contractors is forbidden, and the Contractor shall secure strict compliance with this condition.

41.17.11 *Age Limits of Labour*

The Contractor shall not employ children below the age of 18 as labourers for the Installation work.

41.17.12 *Observance by Sub-Contractor*

The Contractor shall be responsible for the observance of the provisions of Clauses 41.17.1 to 41.17.11 hereof by any Sub-Contractor(s) employed by him in the execution of the Contract.

41.17.13 *Contractor's personnel*

The Contractor's personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer/Purchaser may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's representative if applicable, who: (i) persists in any misconduct or lack of care, (ii) carries out duties incompletely or negligently, (iii) fails to conform with any provisions of the Contract, or (iv) persists in any conduct which is prejudicial to safety, health, or the protection of the environment. If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

41.18 Time of Completion for Installation Work and Delays

41.18.1 *Date of Commencement of Installation Work*

The date of commencement for the Installation work shall be reckoned from the dates on which the Contractor is given possession of the Site to commence Installation, which will be intimated to him in writing by the Purchaser and shall be as per the Bar/Pert Chart attached to the Contract Specifications.

41.18.2 *Possession of Site*

In terms of the Contract, the extent of portions of the Site of which the Contractor is to be given possession from time to time and the order in which such portion shall be made available to him, and subject to any requirement in the Contract to the order in which the Installation work shall be executed, the Purchaser will give to the Contractor possession of as much of the Site as may be required to enable the Contractor to commence and proceed with the Installation work. This will be in accordance with the programme referred to in Clause 41.5.1 hereof and otherwise in accordance with such reasonable proposals of the Contractor as he shall give by notice in writing to the Purchaser / Engineer. The Purchaser, will from time to time, as the work proceeds, give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the Installation work, in accordance with the said programme or proposals (as the case may be). If the Contractor suffers delay from failure on the part of the Purchaser to give possession in accordance with the terms of this clause, the Purchaser shall grant an extension of time for the completion of the work. No compensation will be payable by the Purchaser for any such failure and delay.

41.18.3 *Time of Completion for Installation Work*

Time is the essence of the Contract. The whole of the work, including conducting performance tests to demonstrate performance guarantees according to the Contract shall

be completed within the time stipulated in the Contract, which shall be reckoned from the date of the commencement of the Installation work in accordance with Clause 41.18.1 hereof. Execution times indicated in the Contract are based on the assumption that the Site will be handed over to the Contractor free of obstacles and all other preconditions for installation of the material delivered are fully met.

41.18.4 *Extension of Time of Completion for Installation Work*

Save and except elsewhere provided in the Contract, should the amount of additional work of any kind or other circumstances of any kind whatsoever, which may occur, be such as fairly to entitle the Contractor to an extension of time for the completion of the Installation work, the Purchaser shall discuss and determine the period of such extension mutually with the Contractor.

41.18.5 *Rate of Progress*

The whole of the materials, plant, machinery, equipment and labour to be provided by the Contractor and the mode, manner and speed of execution of the Installation work are to be of a kind, and conducted in a manner, as per time schedule. Should the rate of progress of the Installation work be at any time, in the opinion of the Engineer / Purchaser, too slow to ensure the completion of the Work by the prescribed time or extended time for completion, the Purchaser / Engineer shall so notify the Contractor in writing, and the Contractor shall thereupon take such steps, as he may think necessary and the Purchaser / Engineer may approve, to expedite the progress so as to complete the entire Installation work by the prescribed time or extended time for completion. If the Contractor shall request permission to work by night as well as by day, then if the Engineer shall grant permission to work also by night, then the Contractor shall not be entitled to any additional payment whatsoever for so doing but, if such permission is refused and there is no equivalent practicable method of expediting the progress of the work, the time for completion of the Installation work may be extended by the Purchaser by such period if any, as is solely attributable to such refusal and deemed proper by the Purchaser / Engineer.

41.18.6 *Night work without disturbance*

If work at night is permitted as aforesaid it shall be carried out without unreasonable noise and disturbance. The Contractor shall indemnify the Purchaser from, and against, any liability for damage on account of noise or other disturbance created while, or in carrying out the Installation work, and from, and against, all claims, demands, proceedings, damages costs, charges and expenses whatsoever in regard to or in relation to, such liability.

41.18.7 *Liquidated damages due to Delay in Completion*

- (i) If the Contractor fails to deliver as per the time schedules or complete the commissioning of the Project within the Time for Completion specified in the

Contract or any extension thereof (allowed without Liquidated Damage) due to reasons attributable to the Contractor including its Sub-Contractors, the Purchaser shall be entitled to recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account lying with the Purchaser and if the amount to be deducted is not sufficient or available then by encashment of Contractor's Bank Guarantees, at the rate of 1% of the Contract Price, specified in the Contract, including taxes, duties, levies, cess, etc. per complete week of delay or part thereof up to a maximum of 10% of such Contract Price including taxes, duties, levies, cess, etc.

In case, the Contractor is a Consortium, the Purchaser shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of the lead member of Consortium and if the amount is not available then as a last resort by encashment of their Bank Guarantees, at the rate of 1% of the Contract Price, specified in the Contract, including taxes, duties, levies, cess, etc. per complete week of delay or part thereof up to a maximum of 10% of such Contract Price including taxes, duties, levies, cess, etc.

- (ii) Any recovery of Liquidated Damages shall be effected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance Certificate and Performance Bank Guarantee.
- (iii) The Purchaser may, without prejudice to any other method of recovery, deduct the amount of such damages from any amounts in his hands due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligations to complete the work or from any other of his obligations and liabilities under the Contract.

41.19 Safety, Watching and Lighting

41.19.1 The Contractor shall be responsible for the provision of safety arrangement and protective clothing for all his workmen on Site whether or not engaged in actual Installation work thereof. He shall ensure that all his workmen on Site use safety belts, gloves, helmets, masks etc. as are necessary for their safety. The Contractor shall also be responsible for safety arrangement of all equipment used by him in connection with the installation and transportation work and shall employ only trained & competent operators to man the installation and transportation equipment. The Contractor shall use only tested equipment, tools, wire ropes etc. and shall periodically renew tests to the satisfaction of the Engineer. All test certificates shall be made available to the Engineer at site as and when required by him.

41.19.2 The Contractor shall, in connection with the Installation work, provide and maintain at his own cost all lights, guards, fencing and watching, when and where necessary or required by the Engineer or by any duly constituted authority, for the protection of the work and/or for the safety and convenience of the public or others. The Contractor shall

provide at his own cost the necessary watch and ward to ensure security and safety of all equipment and materials placed under the Contractor's custody.

41.20 Security Regulations

The Contractor shall abide by all the security regulations at Site promulgated by the Purchaser from time to time. The Contractor shall provide identity badges for all his personnel which must be properly displayed by them at Site. In order to facilitate the issue of exit gate permits by the Purchaser for materials and equipment after the completion of the work, the Contractor shall submit to the Purchaser lists of installation equipment etc. and/or other materials that shall be taken by him inside the Site from time to time.

41.21 Care of Work

From the commencement to the completion of the installation work the Contractor shall take full responsibility for the care of plant, machinery and equipment and for all temporary works and in case any damage or loss shall happen to the plant, machinery and equipment or to temporary works from any cause whatsoever shall at his own cost replace or repair and make good the same.

41.22 Damage to Persons or Property

The Contractor shall indemnify and keep indemnified the Purchaser against all losses and claims for injuries or damage to any person or any property whatsoever which may arise out of, or in consequence of, the work at site carried out by the Contractor and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

41.23 Extraordinary Traffic

The Contractor shall use every reasonable means to prevent any of the highways or bridges communicating with on the routes to the Site from being subjected to extraordinary traffic within the meaning of the Road Traffic Act, by any traffic of the Contractor or any of his Sub-Contractors and in particulars the Contractor shall select routes and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from moving of plant and materials from and to the Site shall be limited so far as reasonably possible and so that no unnecessary damage or injury may be occasioned to such highways and bridges. For any damage caused to highways or bridges by extraordinary traffic as aforesaid the Contractor shall be solely responsible.

41.24 Co-operation with other Contractors

The Contractor shall plan and execute his work in a phased manner as directed by the Purchaser from time to time and shall fully co-operate with other agencies working at site simultaneously and afford all responsible facilities to these agencies so as not to obstruct or retard the works simultaneously being executed by such agencies in any way.

41.25 Inspection of other Contractor's Works

If any part of the Contractor's work depends for proper execution on the Work of another contractor, the Contractor shall inspect and promptly report to Engineer/Purchaser, the defects, if any in such work that render it unsuitable for such proper execution and result. The Contractor's failure to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other contractor's work after the execution thereof.

41.26 Vesting of Constructional / Erection Plant etc.

All constructional/erection plant, temporary works and materials owned by the Contractor, or by any company in which the Contractor has a controlling interest, shall, when brought on to the Site, immediately be deemed to become the property of the Purchaser.

41.27 Irremovability of Constructional/Installation, Materials etc.

No Constructional/erection plant, temporary works or materials or any part thereof shall be removed from the site by the Contractor without the written consent of the Purchaser, which consent shall not be unreasonably withheld where the same is no longer immediately required for the purpose of the completion of the work and the Purchaser will permit the Contractor the exclusive use of all such constructional/erection plant, temporary works and materials in and for the completion of the work until the occurrence of any events which gives the Purchaser the right to exclude the Contractor from the Site and proceed with the completion of the Work.

41.28 Removal of Constructional/Installation Materials

Upon the removal of any such constructional/erection plant, temporary works and materials as have deemed to have become the property of the Purchaser under Clause 41.26 hereof, with consent as aforesaid, the property therein shall be deemed to revert in the Contractor and upon the completion of the Work, the property in the remainder of such constructional/erection plant, temporary works, and materials as aforesaid shall be deemed to re-vest in the Contractor. If the Contractor fails to remove any constructional/erection plant, temporary works or materials as aforesaid, within such reasonable time after completion of the Work as may be allowed by the Purchaser, then the Purchaser may sell any such constructional/erection plant, temporary works and materials as aforesaid and after deduction from any proceeds of sales, the costs, charges and expenses of and in connection with such sale, shall pay the balance (if any) to the Contractor, but to the extent that the proceeds of any sale are insufficient to meet all such costs, charges and expenses, the excess shall be a debt due from the Contractor to the Purchaser and shall be deductible or recoverable by the Purchaser accordingly as aforesaid.

41.29 Purchaser not liable for Loss or Injury to Construction/Erection Plant

The Purchaser shall not at any time be liable for the loss of or injury to, any of the constructional / erection plant, temporary works or materials.

41.30 Work in or around an Operating Plant

When the work is being carried out in or around an operating plant, where the plant must run uninterrupted, the Contractor shall only work at specified places and times as mutually arranged between the Contractor and the Purchaser. The Contractor shall take sufficient care in moving his construction erection plant and equipment from one place to another in an operating plant so that they may not cause any damage to the property of the purchaser, like roads, overhead and underground cables, pipes and/or any other services or equipment or building and in the event of the contractor's failure to do so, the cost of such damages, including eventual loss of working hours as estimated by the Purchaser, is to be borne by the Contractor.

41.31 Site to be cleared on Completion of Work

During erection the Contractor shall at all times keep the working and storage areas used by him free from accumulation of waste materials and/or rubbish, immediately after the completion of erection, the Contractor shall remove or dispose of all temporary structures, waste, debris, rubbish etc. and leave the Site in a clean condition to the satisfaction of the Purchaser.

41.32 Possession Prior to Completion

The Purchaser shall have right to take possession of or use any completed or partially completed part of the Work. Such possession or use shall not be deemed to be in acceptance of any Work done not in accordance with the Contract.

41.33 Withholding Payment

The Purchaser will have full liberty to withhold and set off all sums due or to become due to the Contractor (including security deposit), whether under this or any other contract, against any sum due or to become due to the Purchaser from the Contractor under this or any other contract. The Purchaser also reserves the right to withhold the whole or part of the payment claimed by the Contractor which in the opinion of the Purchaser, is necessary to protect himself from loss on account of defective work not remedied, guarantees not met, claims filed against the Contractor, failure by the Contractor to make due payments for materials, labour employed by him, damages to other contractor etc. When grounds for withholding payments are removed to the satisfaction of the Purchaser, payment of the amount due to the Contractor shall be made by the Purchaser without interest.

41.34 Termination of Contract

The Purchaser, without prejudice to any other rights or remedies it may possess, may terminate the Contract in case of the Contractor's noncompliance of his undertakings and obligations under this Contract and more particularly but not limited to the following circumstances by giving notice of termination and its reasons thereof to the Contractor:

- (i). if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or if, the Contractor is a corporation, a resolution is passed

or order is made for its winding up (other than voluntary liquidation for the purpose of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt;

- (ii). if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the terms of the Contract;
- (iii). if the Contractor
 - a) abandoned or repudiated the Contract; or
 - b) have an execution levied on his goods or property; or
 - c) has without any valid reasons to the satisfaction of the Purchaser failed to commence Work as provided in the Contract promptly or has suspended the progress of the Contract performance for more than 14 (fourteen) days after receiving a written instruction from the Purchaser to proceed; or
 - d) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract; or
 - e) Refuses or is unable to provide sufficient materials, service or labour and adequate resources to execute and complete the Work in the manner and progress rate as specified in the Contract.
- (iv). Unjustified and un-warranted interruption of services performed by the Contractor and such interruption occurred for more than 15 (fifteen) days without assigning any reason.
- (v). Errors, negligence, insufficiencies in the specifications and contractual work under execution, or failure to supply sufficient material or man-power as per Technical Specification or other similar circumstances affecting the quality of work for reasons attributable to the Contractor.
- (vi). If during the work, it appears that the design, specifications, recommendations supplied / provided by or through the Contractor do not conform to the terms and conditions of the Contract and good and sound current engineering or fabrication practices.
- (vii). If the Contractor disregards the instructions of the Purchaser in relation to the execution of the Installation work or refuses to implement instructions received from the Purchaser or Engineer within the stipulations of this Contract.
- (viii). If the Contractor promises, offers or gives any bribe, commission, gift or advantage, either by himself or through his agent, to any officer or employee of the Purchaser or Engineer or to any person on their behalf in relation to the execution of this Contract.

Then, in any of the aforesaid cases, the Purchaser may serve the Contractor with a notice in writing to that effect, and if the Contractor does not, within seven (7) days after the delivery to him of such notice, proceed to make good his default, , and carry on the work in compliance with such directions as stated in the aforesaid notice to the entire satisfaction of the Purchaser, the

Purchaser shall be entitled, after giving forty eight (48) hours` notice in writing to expel the Contractor from the Site without thereby avoiding the Contract or releasing the Contractor from any of his obligations or liabilities under the Contract or effecting the rights and powers conferred on the Purchaser by the Contract. The expiry of forty-eight (48) hours from the time of serving such notice in writing to the Contractor by the Purchaser shall be conclusive evidence of the expulsion of the Contractor from the Site, notwithstanding any physical presence of the Contractor or his workmen at Site after such expiry.

Upon receipt of termination hereof, the Contractor shall either immediately or upon such date as may be provided in the notice of termination:

- (i). cease all such work, except for such work as the Purchaser may specify in the said notice for the sole purpose of protecting that part of the Project already executed or any work required to leave the Site in a clean and safe condition;
- (ii). terminate all sub contracts except those to be assigned to the Purchaser pursuant to sub clause (iv) below;
- (iii). deliver to the Purchaser the parts of the work /Project executed by the Contractor up to the date of termination;
- (iv). to the extent legally permissible, assign to the Purchaser all rights, title and benefit of the Contractor in relation to the plant, machinery and equipment as at the date of termination and as may be required by the Purchaser, in any subcontracts concluded between the Contractor and its subcontractors;
- (v). deliver to the Purchaser all drawing and specifications and other documents prepared by the Contractor or its subcontractor as at the date of termination in connection with the work.

Upon such expulsion or termination, the Purchaser may himself complete the Installation work or may employ any other contractor to complete the Work at the risk and cost of the Contractor. In such case, the Contractor shall be liable for any costs for obtaining and /or executing the balance of the work from another agency/contractor in excess of the Contract price. In case of termination of part of the Contract, the Contractor will continue performance on the Contract to the extent not terminated by the Purchaser. The Purchaser or such other contractor may use for such completion so much of the constructional / installation plant, temporary works and materials which has become the property of the Purchaser or which is available on the Site pursuant to Clause 41.28 hereof as he or they may think proper. The Purchaser pursuant to Clause 41.28 is entitled at any time to sell any of the said constructional / installation plant, temporary works and unused materials and apply the proceeds of sale in, or towards, the satisfaction of any sums due or which may become due to him from the Contract or under the Contract. The Purchaser may to the exclusion of the right of the Contractor take over and use any Contractors equipment owned by the Contractor and on the Site in connection with the Work for such reasonable period as the Purchaser considers expedient for the supply and Installation of the Project. Provided always that the Purchaser shall at any time after expelling the Contractor from the Site, have the right to rescind this Contract and claim damages from the Contractor. Provided further that, the exercise of any of the rights aforesaid, shall not prejudice the Purchaser's right and remedies under the law and under the Contract.

41.35 Waiver

Provided always that, in any case in which any of the powers conferred upon the Purchaser by Clause 41.34 hereof shall have become exercisable but have not been exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions thereof, and such powers shall notwithstanding be exercisable by the Purchaser in the event of any future case of default by the Contractor for which his liability for past and future defaults shall remain unaffected. Further, if any condition of the Contract has been waived by the Purchaser at the request of the Contractor in a specific case this will not constitute a waiver in all similar cases in future and will not be cited as precedence.

41.36 Valuation on Determination

The Purchaser shall as soon as may be practicable, after such expulsion of the Contractor from the Site, fix and determine ex-parte or by, or after, reference to the parties or after such investigation or enquiries as he may consider fit to make or institute and certify the amount (if any) which had at the time of such expulsion been earned by or would accrue to the Contractor in respect of the erection work till then executed by him under the Contract, as the Purchaser shall consider reasonable and proper. The Contractor shall have however no claim to compensation for any loss sustained by him, by reason of his having purchased or procured any equipment materials or entered into any commitments or made any advances on account of, or with a view to, the execution of the erection work or the performance of the Contract.

41.37 Payment after Termination

If the Contractor is expelled as aforesaid, the Purchaser shall not be liable to pay to the Contractor any moneys, including the security deposit on account of the Contract, until the costs of the completion of the erection work, considering the cost of carrying out the erection work, either by the Purchaser itself or by any other contractor employed by it, in excess of the sum which would have been payable to the Contractor if the erection work had been completed by the Contractor under the terms of Contract, damages for the delay in completion (if any) and all other expenses incurred by the Purchaser have been ascertained. The Contractor shall then be entitled to receive only such sum (if any) as the Purchaser may certify after deduction of the said amount from the sum payable to the Contractor. But if such amount shall exceed the sum which would have been payable to the Contractor, then the Contractor shall, upon demand, pay to the Purchaser the amount of such excess, and it shall be deemed a debt due by the Contractor to the Purchaser and be recoverable accordingly.

41.38 Jurisdiction

The Contract and all questions, disputes or differences arising under or in connection with this Contract, subject to Arbitration clause, shall be subject to the exclusive Jurisdiction of the courts within the local limits of Telangana, India.

42.0 CONSTRUCTION OF CONTRACT

This Contract and the clauses thereof shall be interpreted and applied solely according their wording, to the objects in view. The Contract shall in all respects be construed and operated as a contract as defined in the Indian Contract Act, 1872, and, save as otherwise expressly provided herein, shall be governed by the provision of the said Act.

43.0 PENALTY FOR USE OF UNDUE INFLUENCE

The Contractor undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees, brokerage or inducement to any person in services of the Purchaser or otherwise in procuring the Contract or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract or any other contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Government. Any breach of the aforesaid undertaking by the Contractor or any one employed by him or acting on his behalf (whether with or without the knowledge of the contractor) or the commission of any offence by the contractor or anyone employed by him or acting on his behalf, as defined in Chapter IX of Indian Penal Code, 1860 or the Prevention of Corruption Act, 1947 or any other Act enacted for the prevention of corruption shall entitle the Purchaser to cancel the contract and all or any other contracts with the contractor and recover from the contractor the amount of any loss arising from such cancellation. A decision of the Purchaser or his nominee to the effect that a breach of the undertaking has been committed shall be final and binding on the contractor.

Giving or offering of any gift, bribe or inducement or any attempt to any such act on behalf of the Contractor towards any officer/employee of the Purchaser or to any other person in a position to influence the decision of the Purchaser, directly or indirectly or any attempt to influence any officer/employee of the Purchaser, directly or indirectly or any attempt to influence any officer/employee of the Purchaser for showing any favour in relation to this or any other contract, shall render the Contractor to such liability/penalty as the purchaser may deem proper, including but not limited to termination of the Contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amount paid by the purchaser.

44.0 GENERAL

Should any conditions in the General Conditions of Contract be contrary to the Special Conditions of the Contract, if any, such special contract conditions shall prevail.

45.0 LIMITATION OF LIABILITY

Except in cases of criminal negligence or willful misconduct the aggregate liability of the Contractor to the Purchaser, whether under the Contract, in tort or otherwise, including the cost of repairing or replacing defective equipment shall not exceed the 100% (Hundred Percent) of the Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective plant and equipment or any obligation of the Contractor to indemnify the Purchaser with respect to copyright (applicable to software) patent infringement and Employee/workman compensation and other liabilities and compensation as per the clauses specified in the Contract.

46.0 LIABILITY OF GOVERNMENT OF INDIA

It is expressly understood and agreed between the Contractor and the Purchaser that the Purchaser is entering into this Contract solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Government of India is not a party to this Contract and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the Purchaser is an independent legal entity with power and authority to enter into e-contracts solely on its own behalf under the applicable laws of India and general principles of Contract Law. The Contractor expressly agrees, acknowledges and understands that the Purchaser is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, the Contractor hereby, expressly waives, releases and foregoes any and all actions and claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this Contract and covenants not to sue the Government of India in any manner, claim, and cause of action or thing whatsoever arising of or under this Contract.

PART IV
SPECIAL CONDITIONS OF CONTRACT

PART V
EVALUATION CRITERIA

1. The broad guidelines for evaluation of Bids will be as follows:
 - a. Only those Bids will be evaluated which are found to be fulfilling all the eligibility and qualifying requirements of the RFP, both technically and commercially.
 - b. In respect of Two-Bid system, the technical Bids forwarded by the Bidders will be evaluated by the Buyer with reference to the technical characteristics of the equipment as mentioned in the RFP. The compliance of Technical Bids would be determined on the basis of the parameters specified in the RFP. The Price Bids of only those Bidders will be opened whose Technical Bids would clear the technical evaluation.
 - c. The Lowest Bid will be decided upon the lowest price quoted by the particular Bidder as per the Price Format given. The consideration of taxes and duties in evaluation process will be as follows:
 - i. In cases where only indigenous Bidders are competing, all taxes and duties (including those for which exemption certificates are issued) quoted by the Bidders will be considered. The ultimate cost to the Buyer would be the deciding factor for ranking of Bids.
 - ii. In cases where both foreign and indigenous Bidders are competing, following criteria would be followed –
 1. In case of foreign Bidders, the FOB price quoted would be adjusted on FOR site basis after loading Indian taxes & duties, freight and insurance.
 2. In case of indigenous Bidders, the FOR site basis including taxes and duties (including those for which exemption certificates are issued) would be considered.
 - d. The Bidders are required to spell out the rates of Customs duty, Excise duty, VAT, Service Tax, etc. in unambiguous terms; otherwise their offers will be loaded with the maximum rates of duties and taxes for the purpose of comparison of prices. If reimbursement of Excise Duty / VAT is intended as extra, over the quoted prices, the Bidder must specifically say so. In the absence of any such stipulation it will be presumed that the prices quoted are firm and final and no claim on account of such duties will be entailed after the opening of tenders. If a Bidder chooses to quote a price inclusive of any duty and does not confirm inclusive of such duty so included is firm and final, he should clearly indicate the rate of such duty and quantum of excise duty included in the price. Failure to do so may result in ignoring of such offers summarily. If a Bidder is exempted from payment of Excise Duty / VAT duty upto any value of supplies from them, they should clearly state that no excise duty will be charged by them up to the limit of exemption which they may have. If any concession is available in regard to rate/quantum of Excise Duty / VAT, it should be brought out clearly. Stipulations like, excise duty was presently not applicable but the same will be charged if it becomes leviable later on, will not be accepted unless in such cases it is clearly stated by a Bidder that excise duty will not be charged by him even if the same becomes applicable later on. In respect of the Bidders who fail to

comply with this requirement, their quoted prices shall be loaded with the quantum of excise duty which is normally applicable on the item in question for the purpose of comparing their prices with other Bidders. The same logic applies to VAT also.

- e. In import cases, all the foreign quotes will be brought to a common denomination in Indian Rupees by adopting the exchange rate as BC Selling rate on the date of the opening of Price Bids.
 - f. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the total price will be corrected. If there is a discrepancy between words and figures, the amount in words will prevail for calculation of price.
 - g. The Lowest Acceptable Bid will be considered further for placement of contract / Supply Order after complete clarification and price negotiations as decided by the Buyer. The Buyer will have the right to award contracts to different Bidders for being lowest in particular items.
 - h. Any other criteria as applicable to suit a particular case.
2. **Price Bid Format:** The Price Bid Format is given below and Bidders are required to fill this up correctly with full details:
- a. Basic cost of the item/items:

	Item	Unit price	Qty	Total i. A
ii. B				
iii. C				
iv. Total of Basic Price				
 - b. Accessories
 - c. Installation / Commissioning charges
 - d. Training
 - e. Technical literature
 - f. Tools
 - g. Any other item
 - h. Is Excise Duty extra?
 - i. If yes, mention the following –
 - i. Total value of items on which Excise Duty is leviable:

- ii. Rate of Excise duty (item-wise if different ED is applicable):
 - iii. Surcharge on Excise duty, if applicable?
 - iv. Total value of excise duty payable:
- j. Is Excise Duty Exemption (EDE) required:
- k. If yes, then mention and enclose the following:
 - i. Excise notification number under which EDE can be given:
- l. Is VAT extra?
- m. If yes, then mention the following:
 - i. Total value on which VAT is leviable:
 - ii. Rate of VAT:
 - iii. Total value of VAT leviable:
- n. Is Service Tax extra?
- o. If yes, then mention the following:
 - i. Total value of Services on which Service Tax is leviable:
 - ii. Rate of Service Tax leviable:
 - iii. Total value of Service Tax leviable:
- p. Is Custom Duty Exemption (CDE) required:
- q. If yes, then mention the following:
 - i. Custom notification number under which CDE can be given(Enclose a copy):
 - ii. CIF value of stores to be imported:
 - iii. Rate of Customs Duty payable:
 - iv. Total amount of Customs Duty payable:
- r. Octroi / Entry taxes:
- s. Any other Taxes / Duties / Overheads / Other costs:
- t. Grand Total:
 - i. Excluding AMC and spares
 - ii. Including AMC with spares
 - iii. Including AMC without spares

Glossary of Purchasing Terms

Agreement-A bargain between parties in dealing with one another such as may be applied in procurement to define terms and performance.

Alternate Bid-(1) A bid offering alternative goods or services. (This type of offer may suffice when requirements may be met with various items or service. (2) A bid submitted which offers goods or services in substitution of those requested. Such an award would be considered only if the bid conditions allow and if the offer is acceptable.

Arbitration-A process to resolve a dispute between two parties by a decision presented by one or more disinterested and uninvolved parties.

As Is-An indication or notice that the seller of goods will not be responsible for the condition or performance if the purchaser accepts them.

Assignment -A subcontract or a transfer of claims, rights or interests of goods, services or property.

Award-A notification that a bid or proposal is accepted.

Back-Order-An unfilled request for issue of warehouse stock. The term requires the generation of a purchase order for stock replenishment if not already ordered. Back-order filling is a matter for policy statement.

Bid Deposit-The deposit of a specified amount submitted by a bidder to a purchaser which would be forfeited should the bidder fail to accept the contract if awarded.

Bid Opening-The timely process of opening bids made to an invitation and making them available to review for the first time.

Bid Sample-An exact example of a product offered by a bidder as a requirement. Such samples may be compared and/or tested to determine compliance with bid specifications.

Bidders List (or Vendors List)-A list of vendors maintained by a purchasing agency designating sources for certain goods and services that would be required by bid solicitation.

Bill of Lading-A document by which a transportation line acknowledges receipt of freight and contracts for its movement.

Bill of Materials-A listing of materials required by a supplier to complete or produce a specified product required by an agency (as required by certain bids or a Request for Proposal).

Claim-A demand for compensation due to noncompliance, damages or injury as authorized by contract or Law.

Client Agency -A using agency benefiting by a purchase made or a contract established by a procurement administration.

Code of Ethics-A written publication of behavioral aspects required of appointed, elected or individuals under the employment of a jurisdiction.

Collusion-An alliance between bidders or persons designed to interfere with just accomplishment of a purpose or a fair opportunity to bid.

Commercial Law-Law regulating Commerce and trade activities. Such Laws provide direction for purchasing personnel as well as suppliers. Reference "Uniform Commercial Code".

Commodity-Any tangible item of property purchased, leased or otherwise obtained by the State and its agencies. Includes deferred payment interest on purchase of tangible personal property and letting of publications upon contract. Commodity does not include goods/property purchased for resale.

Competitive Quotations-A purchasing method used to obtain competitive pricing for goods when the anticipated cost is less than the amount required for formal or competitive sealed bids. This method is used only for small purchasers and should be documented or recorded by written statements from the suppliers.

Competitive Sealed Bidding-A method of acquiring goods above a certain dollar amount when various sources are available. This procurement process allows for levels of quality, terms and conditions to be defined while obtaining competitive pricing.

Competitive Sealed Proposals-A method of establishing a contract for source selection by issuing a request for competitive offers whereby negotiation and changes in the offers may be allowed to secure the most advantageous and cost effective terms for the purchaser.

Confidential Information (also, Proprietary Information)-Any information conveyed to a public employee, due to position in the procurement process, by a manufacturer of firm such as, product testing or trade secret which would not be available as general knowledge.

Conflict of Interest-Interests or involvements that a public employee or a commerce representative may have which would weaken a decision process and not be fair and impartial to business negotiations.

Contingency-An allowance made to provide for or protect desirable conditions in the future. Such conditions that may be threatened by causes or events unforeseeable in the future.

Contract Administration-The management and monitoring of legal agreements to ascertain that the contractor's commitments to the purchasing entity are being fulfilled according to contract.

Convenience Termination Clause-A condition stated in a contract that allows the purchasing entity to cancel the agreement partly or entirely and settle any valid claims with the contractor as appropriate and according to the conditional clause.

Critical Stock-A commodity that must be maintained in inventory, though little used, to respond to expressed need. These commodities do not necessarily meet the criteria to be classified as emergency stock but are required to keep equipment or programs operating.

Default -Non-Compliance of a firm to provide goods or services according to contractual terms.

Defect -A regularity or non-conformity which is not allowable by specifications.

Delivery Terms- A contractual designation of location of delivery, the time of delivery and shipping costs.

Delivery Time- The time during the day and for the days of the week, during which the receiving unit will spot and unload trucks and rail cars.

Demurrage-An assessment against the shipper or consignee as a penalty for the detention of a common carrier's equipment beyond the period of free time allowed for loading or unloading.

Descriptive and/or Technical Literature-Informative product information. Designs, pictures, charts, illustrations, descriptions and technical parameters as would be necessary to evaluate the bid specification requirements.

Design Specification- A generic specification which would describe a particular configuration. A method of testing or inspection may be included.

Economic Order Quantity (EOQ)-A level of quantity or inventory indicating that a re-order to replenish should be made in order to maintain or control a safe inventory.

Emergency Purchase-A purchase made when unpredictable needs must be met. This type of purchase is most often made when health, safety or conservation risks are imminent or when other imperative needs arise.

Emergency Stock-The quantity of a commodity that must be maintained on hand at all times to provide for initial response to an unplanned catastrophic event.

End-Use-Commodities delivered to a using location and no longer accountable as inventory. End-use items may also be subject to issue control at the using location.

Equal or Equivalent-Terms to indicate that similar products or other brands may be acceptable for purchase if specifications are comparable and functional requirements are proven.

Equipment Maintenance and Depreciation-Actual amount of depreciation based on acquisition cost and useful life and actual maintenance costs.

Evaluation Committee-An appointment of advisors and information examiners to assist in the determination to award a contract.

Expediting-Following up on orders placed to insure timely shipment and delivery. Requires communication with shippers and carriers on a routine basis.

Express Warranty-A promise made by the seller relating to quality, performance or other considerations which would encourage a decision to purchase.

Extension-A contract condition that provides for an option to continue the contract to a later date should additional time be needed, after the expiration date, to solicit competitive bids and establish a new contract.

Fair Market Value-A price that would be acceptable on the open market for items or property of equivalent comparison.

Firm Bid-A bid may that constitute a contract with a definite expiration date.

Fixed-Price Contract-A contract requiring that prices remain firm. During the term of such contracts the contractor must absorb any increases which would reduce the profit.

Fixed-Price Contract with Economic Price Adjustment-A contract which allows price increase or reductions. The price increases should be based on a periodical percentage or an allowable index stated in the contract.

Fixed Price Sale-A sale that is firm; cannot be negotiated.

Forecasting-The systematic development of an estimated future requirement determined from past experience, usage trends, technology advances,planned activity and any other factors deemed relevant.

Formal Advertising-A legal notification made public to advise that a government agency is requesting bids with a certain intention of purchase. Such advertising may be placed in newspapers or other publications meeting legal requirements.

Forward Procurement-Purchasing in larger volumes which exceed current needs. A method used when items may sometimes be in limited supply or unavailable; or to realize volume discounted pricing.

Functional or Performance Specification-A specification which would place emphasis on describing a result or capability to be accomplished by a commodity or service. A method of inspection or testing may be included.

Goods-An purchase which does not include real estate, real property or services.

Guarantee-A warranty or statement of performance assurance, quality standards or other promises related to a purchase.

Identical Bid-A bid which is essentially the same as another with regard to products bid.

Ineligible Bidder-A non-responsible bidder or a supplier who has demonstrated a poor record of performance or proven to be financially unstable. Otherwise a bidder who has been removed from the prospective vendors list for non-compliance.

Informal Bid-A telephone quotation or an unsealed pricing offer. A bid for a purchasing intention that is less than the dollar amount required for formal sealed bids.

Inspection Report-To inform a procurement entity that an examination or testing of commodities on contract has taken place. Such a report would further inform the authority of the quality or condition of such goods.

Inventory-(1) The aggregate of all commodities in stock at a given time. (2) The quantity of a given commodity on hand at a point in time. (3) Also used to describe the function when the storeroom stock is counted and reconciled.

Invoice (Bill) -A list of charges or costs presented by a vendor to a purchaser, usually enumerating the items furnished, their unit and total costs, and a statement of the terms of the sale.

Issue-Deliver to user.

Lead Time-Time from date of inventory review or requisition date to delivery date, usually expressed as an average.

Lease Agreement-A contract to make periodic payments for the use of a property for a certain length of time. Such rentals may include additional variable user costs which cannot be predetermined such as cost per copy when leasing copiers.

Lease-Purchase Agreement-An agreement whereby the periodic payments may also be applied as installments toward ownership of a property if the leaser decides to assume the option to own. Such options may be stated as a purchase option or a conditional sales contract.

Legal Notice-Advertising in newspapers or other legally acceptable publications. May include public posting of an intent to award a contract.

Liability and Fire Insurance-Actual cost of insurance coverage for the warehouse and warehouse functions.

License-A permission granted by government to a person or to business owners to participate in a particular type of enterprise. Such enterprises which would be regulated by law.

Line Item-A listing of items in a bid for which a bidder may be expected to provide separate pricing. When such itemization is required individual or separate awards may be made on certain items.

Lot-A stock keeping unit that must be stored apart from other like stock keeping units. Multiple lots of the same stock keeping unit produce excessive honeycombing of the storage space unless the lots are large. One of the hidden costs of warehousing.

Manufacturer-One who produces a product through assembly or combination of raw materials or components. In some instances the manufacturer may not engage in the production except to control and specify the method and design of the item.

Market Place-The commerce sources which determine availability of goods and services and the costs that are derived from the rate of trade with those sources.

Materials Management-The planning of acquisition, maintaining inventory and disposition. This process is based upon scheduling according to need and anticipated usage.

Minimum Inventory-The amount of stock on hand that has been designated as safety stock.

Monopoly-An unfair advantage or control of the market place with regard to the trade of certain goods or services. This type of exclusive marketing advantage serves to restrict competition in that particular activity.

Multiple Award-Awarding contracts to more than one bidder for the same types of goods or similar items. This would be appropriate under circumstances when a single contractor would not be able to adequately serve the entire area that needs to be provided for.

Multi-Step Competitive Bidding- A competitive purchasing method requesting that bidders submit a technical proposal as the initial process. Negotiations may take place with regard to technicalities and job completion processes. Following the first step a competitive price bid is requested. The price bid is not negotiable.

Negotiated Sale-An offer without a fixed price. The owner withholds the right to accept or reject offers.

Net Price-The remainder of the amount after any discounts have been subtracted.

No Bid-A bid reply indicating that the vendor chooses not to bid.

Non-responsive Bid (also, unresponsive)-A bid or offer that does not comply with the requirements as stated.

Obsolescence or Obsolete-Goods that are no longer usable for their intended purpose through expiration, contamination, or change of need.

Oligopoly-Where market availability is held by a limited number of firms.

Open-End Contract-A contract in which the term or quantity is not defined.

Open Market Purchases-Purchasing without contract or negotiation. Such practice may exist in an emergency situation when a contract is not in place.

Option to Renew-A contract may stipulate that the purchasing authority has the option to reinstate for another term.

Order Level-The level of stock of any item at which an order is initiated for more supplies of that item.

Order Processing Time-The amount of time, determined by the inventory manager, needed to carry out all of the steps of issue and reconciliation of merchandise.

Overhead-Includes all of the factors other than direct labor and materials included in the cost of goods sold. This figure is usually expressed as a percentage of direct labor cost, a dollar amount per production unit, and several other ways.

Packaging-A preparation of a commodity for distribution or bulk packing in quantities suitable for filling a carton with a prescribed number of units.

Packing List-A document that itemizes in detail the contents of a particular package or shipment.

Pallet-A rectangular support for unitized lots. Subject to standards of length and width for storage in predetermined places. Construction is such that there is air space between the bottom of the pallet and the load bearing surface of the pallet sufficient to allow the insertion of lifting forks of a pallet truck or forklift. Pallets may be constructed of wood, steel, plastic, rigid paperboard, or aluminum; and may be subject to demurrage charges or disposed of as scrap. In some cases carriers will require equal exchange of serviceable pallets.

Partnership-An agreement between parties to operate a business with stipulations regarding the sharing of profits and losses.

Patent-A right given to an inventor to manufacture and market an invention for a specified period of time. A government patent office grants such authorizations.

Penalty-A charge against a contractor for noncompliance that if not paid within a certain period of time would result in default of contract. A clause stating this condition must be included in the contract if this action is exercised.

Performance Bond-A guarantee submitted by a contractor, certifying that if the contractor is unable to fulfill the obligation the amount will be paid to the purchaser to compensate any loss.

Performance Record-A documentation of the contractors ability to comply with the requirements of a contract during the term.

Performance Specifications-This type of specification places emphasis on describing a capability or result to be accomplished with a commodity or service. A testing or inspection may be included.

Perishable Commodities-Commodities that have a short shelf-life and may be expect to spoil if not placed in direct use.

Pre-Bid Conference-A meeting to clarify an invitation to bid that has been issued. purchaser and the vendor(s).
Price Competition-A contract that is awarded solely upon price consideration.

Price Fixing-A collusion among vendors to market a commodity or certain goods at the same price, thereby restricting competition.

Price Maintenance-The regulation of a base price that may not be undersold by supplier or manufacturer.

Price Protection-An agreement between the buyer and the seller to furnish goods at a predetermined price without increase for the term of the contract. An agreed upon index of periodical increases may be included in such contracts.

Price Schedule-A negotiated or predetermined listing of commodities for a certain price.

Principal-One who designates another to action her or his behalf. The designee would be controlled by the principal.

Privatization-The redirection by a government of a program or government function to be carried on by a private organization.

Procurement Cycle-The entire cycle of purchasing functions and duties which occur during acquisition of commodities.

Proposal Evaluating Criteria-Facts and information such as: Management capabilities, performance plans and technical proficiencies. These factors may be weighted or given a numerical value.

Proprietary Commodity-A commodity for which the manufacturer and/or supplier has been granted an exclusive right to market.

Protest-A registered complaint, made by a bidder or interested party, with regard to a bid decision made by the purchaser for which a remedy or resolution is expected.

Quality Assurance-A program planned to provide that goods purchased may be inspected and/or tested so that compliance with specifications may be determined.

Quality Control-A monitoring of a manufacturing process that determines the level of quality of the goods to be supplied.

Quarantine Stock-Stock being withheld from normal distribution due to product recall, inadequate documentation, contamination or other good reason.

Recyclable Materials-Goods that may be collected for reuse as material to manufacture new products.
Rent- Actual rental cost for space used for warehouse and inventory control functions including office space. For owned buildings a fair market rental value or depreciation should be used.

Reorder Point-The level of inventory of a given commodity at which a purchase requisition is initiated. It is a combination of expected usage during the lead time period plus a safety stock.

Reorder Quantity-The number of units, determined by logical factors, scheduled for reorder when the reorder point is reached.

Requisition-Internal document by which a using agency requests the procurement office to initiate a purchase. May also be a form used to obtain supplies from a storeroom or warehouse.

Resolution-To arrive at an appropriate disposition of a complaint or protest through administrative action.

Responsible Bidder-A bidder who is known to have the necessary capabilities and assets to perform and provide all requirements of an intended contract.

Responsive Bidder-A bidder who tenders a bid which meets all requirements of the invitation to bid.

Restrictive Specification-A specification that makes requirements for technical aspects of a commodity which eliminates competitive or generic bidding.

Rule-A policy statement or regulation which may be issued, with appropriate authority, by an administrative government agency to interpret or clarify a statute.

Safety Stock-The level of stock, over and above the expected usage between the time a replenishment order is processed and replenishment actually occurs, that is held in reserve to try to prevent stock-out, should there be a delay in delivery of stock by the vendor.

Salvage-Property or equipment which has served the useful life, but still has value as a source for parts or scrap.

Scheduled Purchases-A regulated bidding to be carried out at pre-determined intervals to coincide with the volume acquisition needs of user agencies.

Scrap-Commodities that are deemed worthless to the owner and are only valuable to the extent they can be recycled.

Sealed Bid-A bid submitted as a sealed document, by a prescribed time. The contents of the bid will not be known to others prior to the opening of all bids.

Slot-The position in a block occupied by a lot.

Sole Source-A purchase made without issuance of competitive bids for a commodity that is known to be available from only one source.

Spot-The placing of a truck or boxcar where it is required for loading or unloading. Square Pinwheel Course Pattern-An arrangement of warehousing units in which four, uni block like patterns are arranged in a pinwheel.

Standard-Performance levels and characteristics that have been determined as a general expectation for a given commodity.

Stock-The commodity or commodities on hand in a storeroom or warehouse to support operations.

Stock Control-Determining the usage rate of an inventory and controlling the level of ordering and inventory accordingly.

Stock-out- The condition existing when a supply requisition cannot be filled from stock. Stock-out Rate-The number of stock-outs per hundred line items picked.

Storeroom-A secure place for storage of things. A storeroom may be a designated separate secure area within a warehouse or a designated storage room in a workplace and may contain warehouse stock or endues items.

Supplies-All items that are consumable. Generally, these would be commodities with a shorter life while in use than items that would remain in inventory after issuance or assignment for use.

Supply Requisition-A form used by a cost center to request the issue of a commodity or commodities carried in storeroom stock.

Surplus-Commodities that are not returnable to the vendor for credit, but are useful for some purpose and are excess or obsolete for the cost center owning the goods.

Suspension-No longer qualified as a prospective bidder and may be removed from the list of vendors to receive bids.

Term Contracting-Establishing a source from which to acquire goods or services for a specific period of time.

Testing (Commodities)-To perform a laboratory analysis of products purchased from a contract to determine if the quality and performance agreed to by the contractor remains in compliance.

Trademark-A symbol, initialing, lettering, etc., which has been adopted as a positive identification of a supplier. A trademark, to be valid, must be properly registered with legal rights assigned to only one user.

Turnaround Time-The length of time for completing a process usually expressed as an average but can be determined for individual items (i.e. time from placing requisition to issue of goods or time from requisition to issuance of a P.O.). directly incurred by the warehouse.

Utility-A value established for commodities or services when amounts, quality and costs are determined.

Value- The exchange worth rate for goods and services on the open market. **Value Analysis**- The analytical evaluation of a purchase, whereby the total cost of purchasing, maintaining and using the procurement is determined for throughout the useful life.

Vendor File-A file maintained that lists vendors. The file should contain all information pertinent to the vendor, i.e., application information, commodities supplied and performance record.

Waiver of Bids-A purchasing method, whereby the bidding process is omitted and goods are purchased from available sources. Government agencies must be duly authorized by law (or rule) to make this type of purchase.

LEGAL ASPECTS OF PURCHASING

Purchase order is a legal contract between the buyer and the supplier and under this contract; both the parties have certain legal rights and obligations. Purchasing executives need to have a thorough knowledge of all the relevant laws pertaining to purchasing. This knowledge helps them to structure their agreement with the supplier properly. Then main Acts are as follows:

1. The Sale of Goods Act, 1930.
2. The Indian Contract Act, 1872.
3. The Arbitration Act, 1940.
4. The Partnership Act. 1932.
5. The Negotiable Instruments Act, 1881.
6. The Companies Act, 1956.
7. The Central Sales Tax Act, 1956.
8. The Sales Tax Acts and Rules of Various States.

Unless a Buyer has basic Knowledge of the legal aspects of purchasing he is likely to involve himself and the Company into legal complications which have to be avoided. The objective of this chapter is to make him familiar with some of the important legal aspects of purchasing.

Application of Law of Agency

The basic authority for the acts of the Buyer is derived from the law of Agency which gives him the authority to act for his Company. It is, therefore, necessary for the Buyer to know the amount of authority delegated to him for transacting business as the agent of the Company.

As in the case of the Buyer, Sellers and their staff similarly hold the status of selling agents for their firms. To ensure that ensure that a satisfactory contract has been executed, the Buyer must insist upon the acceptance of the offer by an authorised Company official.

While signing a contract, Buyer shall indicate on the document that he is acting in the capacity of agent for his firm and to avoid any possible misunderstanding between the Buyer and Seller as to who are the parties to the contract. Moreover all information to be included as part of the contract shall appear above the agent's signature. It has been held by courts that the data appearing below the signature is for information only and therefore, does not form part of the contract.

General Principles of law of Contract

In Law, Contract is an agreement which is enforceable by Law. All contracts are agreements but all agreements are not contracts. For, an Agreement may be for an illegal object or may be between parties who are not capable of entering into it or it may be entered into through mistake common to both the parties.

"Consensus ad-idem" means that both the parties must understand the same thing in the same sense. This is an essential prerequisite of a valid contract. In order to determine the existence of "consensus ad-idem" it is usual to employ in a given contract the language of offer and acceptance.

Purchase Contract

The Buyer's major responsibility is to ensure that Purchase Contract is properly drawn and is legally binding on the Supplier. To make it enforceable by law, the Contract must contain the following four basic elements:

- a) Agreement (meeting of the mind) resulting from an offer from a Supplier and acceptance from the Buyer to be understood in the same sense.
- b) Consideration or obligation in the same from
- c) Parties shall be competent to enter onto contract
- d) Purpose of the contract must be lawful

Offer and Acceptance

When a Buyer sends a Purchase Order to a Supplier, this act constitutes legal offer to buy materials in accordance with the terms set out on the order. Agreement does not exist however, until the Supplier accepts this offer in terms of the order. In the event of the Buyer requesting for a quotation from the Supplier, the Supplier's quotation constitutes an offer. Agreement then exists when the Buyer accepts the quotation. Mere acknowledgement of offer does not constitute acceptance nor does silence constitute acceptance.

Under Sale of Goods Act, the Supplier has every right to revoke his offer at any time before it is accepted. The offer remains effective until it is rejected or the Supplier makes a counter - offer or until the period of offer is valid, and if that is not mentioned, until the period of offer is valid, and if that is not mentioned, until a reasonable period after the offer is made has elapsed (30 - 90 days).

When a Supplier accepts an order by using his own acceptance from which contains selling terms different from those in the order, legally it is considered as a counter offer which terminates the Buyer's original offer and therefore, no agreement exists until the Buyer and the Seller agree upon terms which are mutually acceptable and incorporate them in a new offer and acceptance.

It has been seen that in practice such conflicts of terms frequently occur but are resolved. Perhaps in most of the cases, the Supplier is able to deliver the materials according to the terms and conditions of the order. But if problem arises before dispatch against such an order, the Buyer may well find that in fact he has legally no valid contract with the Supplier.

If a problem arises after the Buyer receives and accepts the material, the law considers the Buyer to have accepted the counter ~ offer when he has accepted the material. It is, therefore, necessary that every Buyer shall examine the Supplier's acceptance and try to reconcile with him any significant differences in contractual terms.

Consideration

In addition to meeting of minds a valid contract must also contain an element of obligation. Most purchase contracts are bilateral. The Buyer promises to buy from the Supplier certain material as a stated price and the Supplier promises to deliver the material in accordance with the stated contract conditions. What is important is the mutuality of obligation. The contract must be drawn in such a way that each party is bound by the contract. In law, even if one party is not bound, there is no contract. In a Purchase Order the Buyer must mention the quantity, price, delivery in a very specific language so as to bind the Supplier for proper performance of the contract.

Competent Parties

A Valid contract must be made by persons who are competent to contract. The Buyer exceeding his actual or apparent authority in making a contract shall absolve his company from the implications of the contract but he himself shall become liable for the consequences. The contract made by a minor or by an insane or intoxicant person is usually void able under law.

Legality of Purpose

A Contract whose purpose is illegal is automatically void and not enforceable by law. A Contract whose primary purpose is legal, but one of whose ancillary terms is illegal may be either void depending upon the

seriousness of the illegality. For example, if a Buyer purchases material at price which violated restraint of trade or price discrimination laws like Essential Commodities Act in India, the Contract would be legally void.

Special legal Considerations - Inspection Rights

If the Buyer has not previously inspected the material purchased to ensure that it confirms to the terms of the contract, the law gives him a reasonable period of time to inspect the material after it is received. If the Buyer raises no objection to the material within a reasonable period of time (15 - 30 days) he is deemed to have accepted it.

Right of Rejection

The Buyer has the right to reject material if it does not confirm to the terms of the contract. If an excess supply is received, the Buyer can either reject the complete supply or he can reject the quantity in excess of the contract. When the Buyer does not wish to accept wrongly delivered material, he is required only to notify the Supplier and he is not legally bound to return the rejected material. If he neither the material nor notifies the Supplier of his rejection within a reasonable period of time, he is then obliged to pay for the material.

Order Cancellation and Breach of Contract

If a Supplier fails to deliver the goods against an order by the delivery date agreed in the order or if he fails to perform in accordance with the contract conditions, he commits breach of contract. The breach generally gives the Buyers a right to cancel the order. The time of delivery can, however, be extended by the consent of both the parties and on such terms as agreed to by them. At the time of granting of such extension of time for delivery, reservation could be made in respect of future increases in freight, custom duty, excise, sales tax etc.

Where the order is cancelled, the Buyer can in addition sue the Supplier for the damages if he wishes. In case of delivery failure, if the Buyer subsequently purchases the material from elsewhere the damages are generally limited to the difference between the contract price and the price paid to the new supplier.

For re-purchase or risk purchase at the expense of defaulting Supplier the following conditions shall be fulfilled:

a) The Stores re-purchased shall be identical with the stores originally ordered.

- b) The re-purchase shall be made within a reasonable time (6 months) after the date of breach or within the time stipulated in the contract.
- c) The defaulting Contractor shall be served with notice of re-purchase.
- d) The re-purchase shall be on the same terms as in the case of original contract.

Note: Risk purchase loss shall be recovered only after the re-purchase contract has been executed.

It may also happen in some cases that a Buyer is compelled to cancel the order before the materials supplied. In such a case the Buyer breaches the purchase contract. This act is called 'Anticipatory Breach' and it makes the Buyer liable for any resultant injury to the Supplier. However, if the cancellation does not harm the Supplier, he cannot collect any damages. There will be cases where the cancellation of the order is due to factors beyond the control of the Buyer like labour strike in the factory of the Buyer, act of God, war etc. In such cases, the Seller has to accept the cancellation.

If it is evident at the time a major contract is drawn that breach of contract would severely injure one or both parties and that damage would be difficult to determine. It is wise to include in the contract itself a termination or liquidated damages provision. Such provisions stipulate in advance the procedures to be used in determining costs and damages.

Honest Mistakes

When an honest mistake is made in drawing a Purchase Contract, the conditions surrounding such specific case determine whether the Contract is valid or void. As a general rule, mistakes made by only one party does not render the Contract void, unless the other party is aware of the mistake. For example, a quotation is submitted by a Supplier and he intends to quote a price of Rs. 260 per unit and through an error – may be typographical error - the price typed as Rs. 250 is transmitted to the Buyer. In such cases Courts have held that if the Buyer accepts the offer without knowledge of the error, a valid contract exists. On the other hand, if the price of Rs. 250 is incorrectly typed as Rs. 150 or Rs. 15 the Court would probably hold that a competent Buyer should recognise such an error and if one party knows or should know of other's error, the contract is void. However, a Buyer or Seller shall not assume that a mistake, however, innocent, will release him from a contractual obligation. In the majority of cases, it will not do so.

Patent Infringement

The law gives a patent holder the exclusive right to manufacture, sell and use his patented item for a specified number of years. If an industrial purchaser engages in any of these activities during the period of patent protection without permission from the parent holder, he is guilty of patent infringement and can be sued for damages by the patent holder.

Buyers frequently have no way of knowing whether their Suppliers are selling patented materials with or without authorization from the patent holder. If a Buyer unknowingly buys an item from a supplier who has infringed the patent holder's rights, the Buyers is also guilty of infringement if he uses the items. To protect against such unintentional violations, most companies include a protective clause in their purchase orders which states that the seller shall indemnify the Buyer for all expenses and damages resulting from patent infringement. Clauses of this type do not prevent the patent holder from suing the user. If properly stated, however, they can require the Seller to defend the user in such legal proceeding and can give the user legal recourse to recover any resulting losses from the Seller.

Conclusion

The purpose of this chapter is to make the Buyer alert and alive to the legal responsibilities involved in his job. It is not necessary that a Buyer should be a legal expert. But at the same time, the Buyer should know as to when to seek sound legal advice whenever any legal problems arise. He is also supposed to know the legal aspects of purchasing to the extent that in his job he does not hurt himself or his company. The best thing for a Buyer is to avoid legal problems by using his skill in selecting sound, co-operative and reliable Suppliers. He shall also use his skill in setting disputes by negotiations.

INCOTERMS (INTERNATIONAL COMMERCIAL TERMS) 2010

INCOTERMS are a set of Three-letter standard trade terms that defines the respective obligations, costs and risks involved in the delivery of goods from the Seller to the Buyer.

INCOTERMS to be used in International transactions and to be incorporated within the Contract of Sale or Purchase Order.

INCOTERMS first published in 1936 and reviewed every 10 years by 'The International Chamber of Commerce (ICC)' to ensure that they are kept up to date with current trade practices.

INCOTERMS 2010 will be effective from January 1, 2011.

INCOTERMS 2010 are grouped into the following classes:

1) Departure

EXW – Ex Works (named place)

The seller makes the goods available at his premises. The buyer is responsible for all charges. This trade term places the greatest responsibility on the buyer and minimum obligations on the seller. The Ex Works term is often used when making an initial quotation for the sale of goods without any costs included. EXW means that a seller has the goods ready for collection at his premises (Works, factory, warehouse, plant) on the date agreed upon. The buyer pays all transportation costs and also bears the risks for bringing the goods to their final destination.

2) Main carriage unpaid

FCA – Free Carrier (named places)

The seller hands over the goods, cleared for export, into the custody of the first carrier (named by the buyer) at the named place. This term is suitable for all modes of transport, including carriage by air, rail, road, and containerised / multi-modal sea transport. This is the correct "freight collect" term to use for sea shipments in containers, whether LCL (less than container load) or FCL (full container load).

FAS – Free Alongside Ship (named loading port)

The seller must place the goods alongside the ship at the named port. The seller must clear the goods for export. Suitable only for maritime transport only but NOT for multimodal sea transport in containers. This term is typically used for heavy-lift or bulk cargo.

FOB – Free on board (named loading port)

The seller must themselves load the goods on board the ship nominated by the buyer, cost and risk being divided at ship's rail. The seller must clear the goods for export. Maritime transport only but NOT for multimodal sea transport in containers. The buyer must instruct the seller the details of the vessel and port where the goods are to be loaded, and there is no reference to, or provision for, the use of a carrier or forwarder. It **does not** include Air transport. This term has been greatly misused over the last three decades ever since Incoterms 1980 explained that FCA should be used for container shipments.

3) Main carriage paid

CFR or CNF – Cost and Freight (named destination port)

Seller must pay the costs and freight to bring the goods to the port of destination. However, risk is transferred to the buyer once the goods have crossed the ship's rail. Maritime transport only and Insurance for the goods is NOT included. Insurance is at the Cost of the Buyer.

CIF – Cost, Insurance and Freight (named destination port)

Exactly the same as CFR except that the seller must in addition procure and pay for insurance for the buyer. Maritime transport only.

CPT – Carriage Paid To (named place of destination)

The general/containerized/multimodal equivalent of CFR. The seller pays for carriage to the named point of destination, but risk passes when the goods are handed over to the first carrier.

CIP – Carriage and Insurance Paid (To) (named place of destination)

The containerized transport/multimodal equivalent of CIF. Seller pays for carriage and insurance to the named destination point, but risk passes when the goods are handed over to the first carrier.

4) Arrival

DAT – Delivered at terminal (... named terminal at port or place of destination) - (NEW!)

The Seller delivers when the goods, once unloaded from the arriving means of transport, are placed at the Buyer's disposal at a named terminal at the named port or place of destination. "Terminal" includes any place, whether covered or not, such as a quay, warehouse, container yard or road, rail or air cargo terminal. The Seller bears all risks involved in bringing the goods to and unloading them at the terminal at the named port or place of destination.

DAP - Delivered at place (... named place of destination) - (NEW!)

The Seller delivers when the goods are placed at the Buyer's disposal on the arriving means of transport ready for unloading at the named place of destination. The Seller bears all risks involved in bringing the goods to the named place.

DDP – Delivered Duty Paid (named destination place)

DDP means that the seller pays for all transportation costs and bears all risk until the goods have been delivered and pays the duty. Also used interchangeably with the term "Free Domicile". The most comprehensive term for the buyer. In most of the importing countries, taxes such as (but not limited to) VAT and excises should not be considered prepaid being handled as a "refundable" tax. Therefore VAT and excises usually are not representing a direct cost for the importer since they will be recovered against the sales on the local (domestic) market.

Incoterms 2010: Visual Look at Buyer vs. Seller Responsibility

New Version

	EXW Ex Works	FCA Free Carrier	FAS Free Alongside Ship	FOB Free Onboard	CFR Cost & Freight	CIF Cost Insurance & Freight	CPT Carriage Paid To	CIP Carriage Insurance Paid To	DAT Delivered At Terminal	DAP Delivered At Place	DDP Delivered Duty Paid
Services	Mode: All	Mode: All	Mode: Water	Mode: Water	Mode: Water	Mode: Water	Mode: All	Mode: All	Mode: All	Mode: All	Mode: All
Packing	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading Charges	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Inland Freight	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Terminal Charges	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Insurance	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Buyer	Seller	Seller	Seller	Seller
Loading on Vessel	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Freight	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Arrival Charges	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller
Duty & Taxes	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller
Delivery to Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller

New

New

Reference Web sites for Customs, Incoterms and CVC.

Web site address	Remarks
http://www.cbec.gov.in/ (CBEC- Central Board of Excise and Customs)	i) Acts (Tariff act, Excise act and Taxation laws etc), ii) Tariff, iii) Notifications, iv) Manual, v) Forms (Refund application, Bill of Entry and Bonds etc) and vi) Exchange Rates etc.
http://www.iccwbo.org (ICC- International Chamber of Commerce, WBO- World Business Organisation)	INCOTERMS (INternational COMmercial TERMS)
http://cvc.nic.in	CVC (Central Vigilance Commission)

Compliance to CVC Guidelines

Sl. No.	Office Order No.	File No.	Date of Issue	Subject	Remarks	Purchase Policy reference
1	06/07/12	11/VGL/53	23/07/2012	Adoption of Integrity Pact - Standard Operating Procedure-reg.	Age of IEM 70 years	Clause No. 10
2	01/01/12	010/VGL/035	12/01/2012	Guidelines on e - Procurement Linked Document	Compliance to Quality requirements	Clause No. 53
3	02/02/11	01-11-CTE-SH-100	17/02/2011	Mobilization Advance	Advance with Interest	Clause No. 26.2
4	01/02/11	011/VGL/014	01/02/2011	Transparency in Tendering System	EOI	Clause No. 6.0
5	01/01/10	005/CRD/012	20/01/2010	Tendering Process - Negotiations with L1	Negotiations with L1	Clause No. 21.0
6	17/04/10	009/VGL/016	19/04/2010	Integrity pact - Selection and Recommendation	IEM	Clause No. 10.0
7	18/04/2010	009/VGL/002	26/04/2010	Implementation of e-tendering	e- tendering solution checklist	Clause No. 53.0
8	31/10/09	009/VGL/055	09/11/2009	Review of purchase preference policy	Purchase Preference Policy	Clause No. 49.0
9	29/9/09	009/VGL/002	17/09/2009	Implementation of e-tendering solutions....	Security in e-Proc	Clause No. 53.0
10	10/5/09	008/CRD/013	18/05/2009	Adoption of Integrity Pact-Standard Operating Procedure-reg Integrity Pact (Revised)	Integrity Pact	Clause No. 10.0
11	1/1/09	009/VGL/002	13/1/09	Implementation of E-tendering solutions	Selection of application service provider (NIC)	Clause No. 53.0

Compliance to CVC Guidelines

12	24/8/08	007/VGL/033	5/8/08	Adoption of Integrity Pact in major Government procurement	Intergrity Pact	Clause No. 10.0
13	18/5/08	008/VGL/001	19/5/08	Adoption of Integrity Pact in major Government Procurement	Intergrity Pact	Clause No. 10.0
14	05/02/08	4CC-1-CTE-2	05/02/2008	Mobilisation advance	As per D.O.P.	Clause No. 26.2
15	43/12/07	007/VGL/033	28/12/2007	Adoption of Integrity Pact in major Govt. Procurement Activities	Intergrity Pact	Clause No. 10.0
16	41/12/07	007/VGL/033	4/12/2007	Adoption of Integrity Pact in major Govt. Procurement Activities Modified Integrity Pact	Intergrity Pact	Clause No. 10.0
17	10/04/07	4CC-1-CTE-2	10/04/2007	Mobilization advance	Interest Free Advance.	Clause No. 26.2
18	04/3/07	005/CRD/12	03/03/2007	Tendering process - negotiations with L-1	Price Negotiations	Clause No. 21.0
19	68/10/05	005/CRD/12	25/10/2005	Tendering Process negotiation with L-1	Counter offer	Clause No. 21.0
20	18/3/05	000/VGL/161	24/03/05	Banning of buisness dealing with firms	Banning by Mgt only, not by CVO	Clause No. 4.5
21	47/7/04	98/ORD/1	13.07.2004	Commission's Directives on use of Website in Public Tenders	Posting of tenders on website	Clause No. 5.1.1 & 53.0
22	-----	4CC-1-CTE-2	08.06.2004	Mobilization Advance	Interest Free Advance.	Clause No. 26.2
23	-----	05-04-1-CTE-8	08.06.2004	Receipt and Opening of Tenders	Tender receipt & opening.	Clause No. 12.0 & 13.0
24	10/2/04	98/ORD/1	11.02.2004	Increasing transparency(Tender process)	Posting of tenders on website	Clause No. 5.1.1 & 53.0

Compliance to CVC Guidelines

25	46/9/03	98/ORD/1	11.09.2003	E-procurement/Reverse Auction	e-procurement	Clause No. 53.0
26	44/9/03	98/ORD/1	04.09.2003	Irregularities in the award of contracts	NIT with clear terms	Clause No. 8.0
27	33/7/03	98/ORD/1	09.07.2003	Short-comings in bid documents	Qualification criteria to be defined in NIT.	Clause No. 8.0
28	-----	98/ORD/1(Pt.IV)	12.03.2003	Use of web-site in Govt. procurement or tender process	Posting of tenders on website	Clause No. 5.1.1 & 53.0
29	-----	98/ORD/1	03.08.2001	Improving Vigilance Administration-Tenders (H1)	Post tender negotiation	Clause No. 21.0
30	-----	98/ORD/1	24.08.2000	Improving Vigilance Administration-Tenders	Re-tendering if L1 backs out.	Clause No. 16.0
31	-----	8(1)(h)/98(1)	18.11.1998	Improving Vigilance Administration (L1) (L1)	Post tender negotiation	Clause No. 21.0
32		No.UU/POL/19	08.10.1997	Grant of interest free mobilization advance.	Advance BG with Interest.	Clause No. 26.2
33		No.98/ORD/1	15.03.1999	Improving vigilance administration-Tenders	Negotiation with L1	Clause No. 21.0
34		No 12-02-1-CTE-6	17.12.2002	Prequalification criteria (PQ).	Fixing the PQ in NIT.	Clause No. 17.0
35		No 12-02-1-CTE-6	07.05.2002	Pre-qualification Criteria (PQ).	Fixing the PQ in NIT.	Clause No. 17.0